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Ministry of the
Attorney
General

Government of Ontario

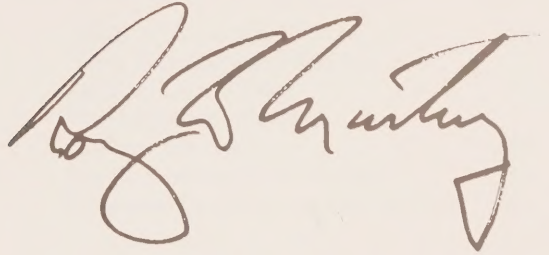
annual report 1979-80

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To His Honour the Lieutenant Governor in
Council

May it please Your Honour:

It is my pleasure to present to your Honour the
Annual Report of the Ministry of the Attorney
General for the year 1979-80.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry'. The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General





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Letter from the Deputy Attorney General

February 9, 1981

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
Ministry of the Attorney General,
18th Floor, 18 King Street East,
Toronto, Ontario.
M5C 1C5

Dear Mr. Attorney:

I am pleased to be able to present to you, in accordance with the provisions of Section 7 of The Ministry of the Attorney General Act, our sixth Annual Report describing the operations of the Ministry throughout the year 1979-1980.

The year has been one in which the Ministry has renewed its efforts to confront a number of critical problems facing the administration of justice. Perhaps most noteworthy in this regard is the new Provincial Offences Act which will significantly streamline and simplify the handling of minor provincial offences. The passage of the new Act presents all concerned with the administration of justice with a challenge: a challenge of achieving enhanced efficiency, while at the same time scrupulously protecting the rights of accused persons. Such reforms make demands on all of us, but I am pleased to be able to report that the system appears to be meeting those demands.

Similar progress has been seen in the development of French language court services in Ontario. We are also making progress in the vitally important task of providing a final French language version of the Ontario Statutes.

While these more recent developments have made demands on the Ministry, the routine operations of the Ministry have continued to face increasing pressures from increasing caseloads, at a time of tight budgetary control. In many respects, our system of justice rests upon the dedication and zeal of many employees, working in the Ministry of the Attorney General across Ontario, who have responded to the many demands placed upon them, and who have

continued to provide the public with a quality of service that it deserves and it expects. This report summarizes, all too briefly, their work during 1979-80.

All of which is respectfully submitted.

Yours very sincerely,

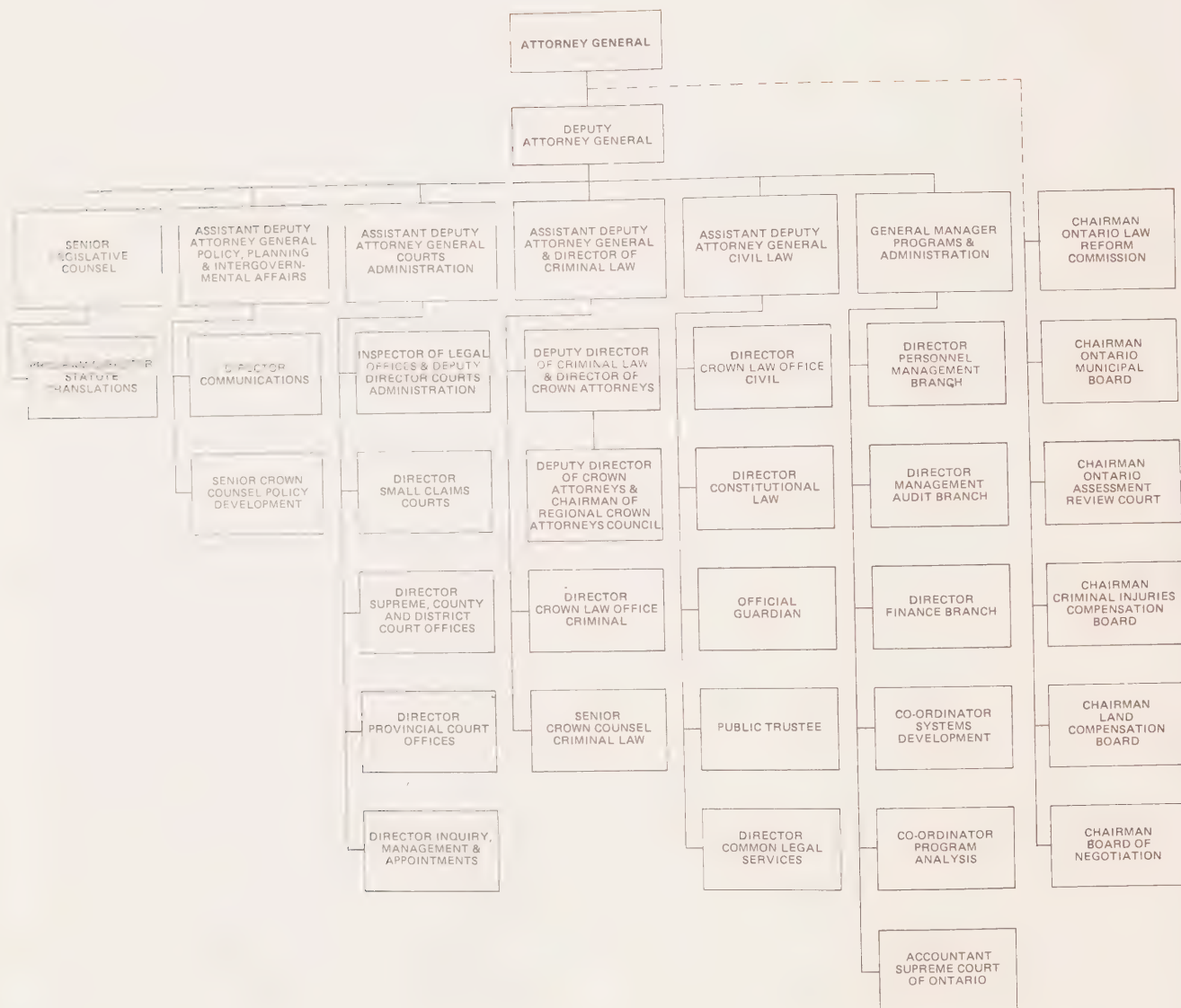


H. Allan Leal,
Deputy Attorney General.



The Ministry of the Attorney General

Senior Positions



OFFICE OF THE LEGISLATIVE COUNSEL

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

The office provides a complete central legislative drafting service for the Government, members of the House and petitioners for private legislation.

The Legislative Counsel is part of the Ministry of the Attorney General in respect of Government matters but has an independent function as an officer of the Legislative Assembly in respect of the House procedures and work of private members. The latter function is the traditional office of law clerk of the House.

The office consists of eight lawyers, eight secretaries and clerks, four legislative editors and a French translation staff of six translators, an administrative executive and two secretaries.

In particular, the duties and responsibilities of the office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes and office consolidations.
4. Maintaining public files of regulations and publishing the regulations.
5. Translating selected statutes into the French language and publishing the French translations for public convenience.

The statutes are maintained updated in a form capable of being printed at any time. This update is used for office consolidations and decennial revisions. The method of printing is undergoing a transition to the use of magnetic tape which will eventually result in the storage and update of all the statutes in this form with a capacity for retrieval.

The publication of the Revised Statutes, 1980 and Revised Regulations, 1980 has been undertaken and will be distributed in 1981. Innovations will include a comprehensive general index to the Statutes and a schedule collecting all the provisions that have been unconsolidated and unrepealed since 1867.

The French translation program consists of the translation and publication of about one-quarter of the Ontario statutes and selected regulations. The translations published under the imprimatur of the Attorney General have the status of official translations. Questions of interpretation are governed by the text in the form in which the Act was passed by the Legislature.

Number of Bills Drafted, Introduced and Passed

	1976	1977	1978	1979
Government bills —				
Drafted	151	206	158	180
Introduced	101	127	125	133
Passed	87	70	106	114
Private bills —				
Introduced	26	57	49	32
Passed	24	43	47	28
Private member's bills —				
Drafted	104	96	99	102
Introduced	95	80	89	79
Passed	0	1	0	1
Number of pages in statute book	895	1010	1384	1056

Number of Regulations Drafted and Filed

	1976	1977	1978	1979
Drafted	1230	1156	1227	1122
Filed	1021	975	1007	962
Published pages in Gazette	1717	1797	1965	2568

Program of Operations for the fiscal year 1980-1981

The office will continue its existing operation and establish a data bank of Ontario statutes and regulations.

The Ministry of the Attorney General

POLICY DEVELOPMENT DIVISION

Archie Campbell, Q.C.,
Assistant Deputy Attorney General

The Division

At present the Division, which consists of an Assistant Deputy Attorney General and five lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 140 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and Members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the justice committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Examples of Activity

Legislation

1. The Administration of Justice Amendment Act, 1979 authorizes the fees payable in court proceedings to be fixed by regulation of the Lieutenant Governor in Council. Previously fees were fixed by the rule-making body for each

court. The amendment, which will allow a more consistent approach to court fees in Ontario, is now in force.

2. The Architects Amendment Act, 1979 makes it explicit that, although the present law stipulates that no corporation shall be licensed to practise architecture in Ontario, architects are not prevented from providing architectural services to a corporation providing such services in respect of work outside Ontario. In force as of December 20, 1979.

3. The Compensation for Victims of Crime Amendment Act, 1979 allows the Lieutenant Governor in Council to appoint such number of members as are considered necessary to the Criminal Injuries Compensation Board. It had been stipulated that there be not fewer than five and not more than seven members of the Board. This change, in force as of December 20, 1979, should expedite the compensation of victims of crime.

4. The County Judges Amendment Act, 1979 redefines the status of certain county judges by removing the term "junior judge" from The County Judges Act and related Acts. Passed by the legislature in June of 1979.

5. The Evidence Amendment Act, 1979 permits the use of official translations of statutes in French language proceedings. In force as of June 14, 1979.

6. The Interprovincial Subpoenas Act, 1979 provides a procedure for the enforcement in Ontario of a subpoena issued in another province or territory of Canada, for the attendance of a person in Ontario. This Act closely follows the legislation recommended by the Uniform Law Conference of Canada. Passed by the legislature in December of 1979.

7. The Judicature Amendment Act, 1979 effects certain routine changes in respect of functions and titles of certain officers of the courts, generally aimed at increasing administrative flexibility. Provision is also made for payment of interest on judgments based on the prime rate, with discretion in the judge to depart from the general rule where to do so would be just. As well, the amendment permits a procedure for the fixing of the rate of interest to be used in determining the capitalized value of an award in respect of future damages. In force as of June 22, 1979.

8. The Libel and Slander Amendment Act, 1980 is designed to cope with recently developed methods of communication by extending the definition of broadcasts. It also includes a limited extension of the defence of fair comment. In force as of June 19, 1980.

9. The Occupiers' Liability Act, 1980 and The Trespass to Property Act, 1980 together facilitate continued co-operation between agricultural and recreational groups. The Occupiers' Liability Act replaces the common law duties of an occupier with a single duty of care based on the rules of negligence. Certain exceptions are specified, including a lower duty of care with respect to trespassers and persons allowed to enter certain classes of land for recreational activity. The Trespass to Property Act provides more effective sanctions for trespass and establishes a system whereby an owner can give a limited right of entry to permit recreational activity.

These Acts strengthen the property rights and protection of land occupiers and, at the same time, encourage occupiers to make their land available for compatible recreational activities. Both Acts are now in force.

10. The Powers of Attorney Act, 1979 implements recommendations of the Ontario Law Reform Commission: The power to grant a power of attorney exercisable after the death of the donor is removed, and provision is made for powers of attorney exercisable during subsequent legal incapacity of the donor. The Act also provides for a simplified form of general power of attorney. In force as of December 20, 1979.

11. The Provincial Court (Civil Division) Project Act, 1979, in force as of June 30, 1980, creates a new court in Metropolitan Toronto. This court has taken over the jurisdiction of the small claims courts in this area and, in addition, has jurisdiction in most types of civil claims up to \$3,000. One of the chief motivations behind this legislation was a commitment to make the courts of Ontario accessible to ordinary citizens and to provide less expensive, less prolonged methods of settling disputes. If the new court is successful, it may be extended to other parts of the province.

12. The Public Accountancy Amendment Act, 1979 removes the \$25 maximum on licensing fees for public accountants, an amount which had remained unchanged since 1950. The amendment

permits the Public Accountants Council to set fees, subject to the approval of the Lieutenant Governor in Council. In force as of June 14, 1979.

13. The Regulations Revision Act, 1979 and The Statutes Revision Act, 1979 provide the statutory basis for consolidation and revision of Ontario regulations and statutes at the end of 1980. Some innovations to procedures in earlier revisions have been introduced. These Acts were passed by the legislature in December of 1979.

14. The Territorial Division Amendment Act, 1980 creates the new judicial district of York Region. This division took responsibility for the Act, since it creates a territory for judicial purposes. In force as of June 11, 1980.

Studies, Papers and Consultations

1. The division assisted the interministerial task force on medical consents and on the guardianship of mentally incompetent persons.

2. Participation in the interministerial committee on young offenders was continued.

3. The division worked with the interministerial committee on animal control problems.

4. A lawyer of this division is acting as counsel to the task force on vandalism.

5. Lawyers from this division have been involved in federal-provincial consultation in respect of transfer of the federal power over divorce to the provinces, with a view to constitutional amendment.

6. The division has been monitoring courts' decisions under The Family Law Reform Act. We have also responded to numerous enquiries from the Bar and from the public regarding the Act. Our effort to inform the public about The Family Law Reform Act has been ongoing: Explanatory pamphlets have been translated into French, and both language versions have been widely distributed.

7. The division continues to contribute to continuing educational programs for the legal profession, sponsored by the Law Society of Upper Canada and the Canadian Bar Association.

8. A lawyer from the division acted as secretary and co-ordinator of the Rules Advisory Committee for the Provincial Court (Civil Division) of Metropolitan Toronto.

The Ministry of the Attorney General

9. The division participated on the Tort Compensation Committee, reporting to the Bench and Bar Committee. Recommendations were submitted regarding instalment payment of judgment debts in appropriate circumstances.

10. In keeping with our role in developing the new legislation regarding residential tenancies, a lawyer from this division was appointed to the Board of Residential Tenancy. In this way, the Board can be informed by the insights gained during the process of developing the legislation.

11. A discussion paper on the proposed Construction Lien Act, an Act to replace The Mechanics Lien Act, has been prepared, after consultation with all segments of the construction industry. The aim is to respond to the existing complexities and uncertainties in this area of the law by developing straightforward legislation, which would take into account the problems that concerned parties have encountered under the present law.

12. Extensive consideration has been given to The Juries Act, 1974. A discussion paper addresses eligibility to serve as a juror, and deals with such civil rights issues as the eligibility of blind persons, and of persons 70 years of age or older.

13. A lawyer from this division has worked on the Rules Committee of the Provincial Courts (Family Division), resulting in a new set of rules to govern proceedings under The Child Welfare Act, and a reconsolidation of the rules of the Provincial Courts (Family Division). As well, the division assisted in the preparation of rules for the Unified Family Court.

14. Review of the Report of the Civil Procedure Revision Committee is ongoing.

15. Statutory provisions in respect of landholding by charities have been under study, and proposals to amend the law so as to avoid unfairness to charitable organizations have been developed.

16. The division is studying the problems which have been surfacing in the courts regarding the estates of persons who have died in Ontario, leaving potential beneficiaries in the Soviet Union and other Eastern European countries. The aim is to ensure that the testamentary freedom of such persons is not prejudiced.

17. The division has maintained ongoing liaison with the Ontario Legal Aid Plan through the work of a Joint Committee.

18. The division is active in issues involving law enforcement and race relations.

19. The division assumed major responsibilities in the development and implementation of the Provincial Offences Act.

Uniform Law Conference

The Conference consists of commissioners and other participants from all provinces, the territories and the federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has continued to contribute to the work of this Conference. Consideration of reciprocal enforcement of maintenance orders within Canada led to the passing of a uniform draft Act of the Conference. Discussion of the status of children continues.

French Language Services Branch

Etienne Saint-Aubin,
Co-Ordinator

As the Ministry's French-language services program expanded and became a significant element of its operations, the need for full-time attention and co-ordination became evident. In this regard, an office of Co-ordinator of French Language Services was established to ensure that the momentum generated to date will be maintained and appropriate attention and study devoted to the further expansion of the program.

On December 31, 1979, there occurred the most important development to date in the Ministry's French-language services program and probably one of the most significant in the overall administration of justice. On this date, an amendment to the Criminal Code of Canada, passed at the request of the Attorney General of Ontario in June of 1978, was proclaimed and thereby took effect in Ontario. Consultation between Ontario and the federal government had taken place in the interim period between enactment and proclamation to ensure an orderly implementation. As part of this implementation, a course in French legal terminology was given to those judges and Crown attorneys who spoke French but needed some additional preparation to deal with trials in the French language.

This amendment, known as Bill C-42, provides upon request anywhere in Ontario, for a trial before a judge or judge and jury which speaks both English and French, for an accused charged with a criminal offence who is French-speaking. Since December 31, 1979, a number of trials have been conducted pursuant to these new provisions which, for some areas, involve the movement of judges, Crown Attorneys and other court support staff from areas which have these resources. Most of the areas where the main volume arises have such resources in place. Accordingly, the rule is that a trial be heard in the locality in which the matter arises. The exception to this occurs in those matters where trial by jury is requested in an area which does not have a French-speaking population base large enough to permit empanelling a jury. In such cases, a change of venue provision operates.

For matters other than under the Criminal Code, continued extension has taken place, building on the legislative footing which had been prepared carefully in the earlier stages of the French-language services program. Accordingly, designations of courts by Order-in-Council pursuant to section 127 of The Judicature Act of Ontario have brought the availability of bilingual trials to the Provincial Court (Family Division), Small Claims Courts and Provincial Offences Courts. The chart which follows shows which courts are so designated.

Planning is continuing for the designation of other courts in the near future. In this regard, there have been ongoing vigorous efforts by various branches to increase the Ministry's resources in order to permit further extension.

Designated Courts

Designated Counties/Districts	Provincial Court (Family Division)	Provincial Court (Prov. Offences)	Small Claims
Algoma	Elliot Lake Blind River Hornepayne	Hornepayne	Wawa Elliot Lake
Cochrane	Cochrane Hearst Kapuskasing Smooth Rock Falls	Cochrane Kapuskasing Hearst Smooth Rock Falls Timmins	Cochrane Timmins Kapuskasing Iroquois Falls
Essex			Windsor
Niagara South			Welland Niagara Falls
Nipissing	North Bay Sturgeon Falls	North Bay Sturgeon Falls Mattawa	North Bay Sturgeon Falls
Ottawa-Carleton	Ottawa	Ottawa	Ottawa
Prescott-Russell	L'Orignal Rockland	L'Orignal Rockland Hawkesbury	Hawkesbury Rockland
Stormont-Dundas -Glengarry	Cornwall		Alexandria Cornwall
Sudbury	Sudbury Espanola	Sudbury Espanola	Sudbury Espanola Chapleau
Timiskaming			Haileybury Englehart Kirkland Lake

Note County/District and Supreme Courts not yet designated.

The Ministry of the Attorney General

Existing Rights

Existing rights to trials before a bilingual court pursuant to Criminal Code (s. 462.1) and The Judicature Act.

A. Criminal matters

(both for indictable offences and summary conviction proceedings)

In all 49 counties/districts at all levels of courts.

Note — does not include proceedings other than trials, namely preliminary inquiries, bail hearings, special remedies. Present practice is to accommodate requests for such where feasible.

B. Civil matters and Quasi-Criminal matters

Pursuant to Judicature Act, limited to designated counties/districts and designated courts therein. "Courts" interpreted to mean specific geographical locations as well as levels.

Communications Branch

David Allen,
Director

The Communications Branch is responsible for the preparation, publication and distribution of booklets, pamphlets, films, news releases, statements, speeches and other material to explain Ministry proposals, programs and legislation. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters.

The Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the judicial system in general.

During 1979-80, demand remained strong for the Branch's English and French pamphlets and booklets on Family Law and Small Claims Court. Requests were mainly from individuals and from teachers who asked for class sets of materials.

The Branch, with the assistance of the Policy Development Division, also was responsible for producing two new publications, a pamphlet and a 90-page booklet explaining new rights and procedures under the Provincial Offences Act, 1979. The publications, available in both English and French, were prepared as part of an extensive public information program which was launched March 31, 1980, the day the new legislation was proclaimed in force. Other

elements of the information program included newspaper and radio advertising across Ontario and the posting of informational posters at L.C.B.O. outlets, driver examination centres and licence issuing offices.

During 1979-80, the Branch commissioned a 17-minute, colour film on India. The film, entitled *Images: A Journey Through India*, was made as a result of the Attorney General's visit to that country in January, 1979. The film endeavours to dispel preconceived ideas about Indian people, and to promote a better understanding of their way of life. Distribution of the film began in March, 1980, to interested schools, libraries and community groups.

Widespread distribution continued in 1979-80 of two other films commissioned in previous years by the Branch; *Family Law Reform: Your New Rights*, and *Courtroom 32: A Day in Provincial Court (Criminal Division)*.

During the year, the Branch also worked with an outside agency to prepare an extensive public information campaign to warn motorists about the dangers of drinking and driving. The campaign, which was in effect throughout December, 1979, included the use of posters, newspaper advertisements and radio.

CRIMINAL LAW DIVISION

R. M. McLeod, Q.C.,
Assistant Deputy Attorney General
and Director of Criminal Law.

The Division comprises two branches, the Crown Attorneys System and the Crown Law Office — Criminal, and is responsible for all criminal prosecutions and the provision of legal advice to the Attorney General and Deputy Attorney General in all Criminal Law matters.

Crown Attorneys System

J. D. Takach, Q.C.,
Deputy Director of Criminal Law
and Director of Crown Attorneys.

W. H. Langdon, Q.C.,
Deputy Director of Crown Attorneys.

History

Prosecution authority rested originally with the Attorney General and his officers at the capital

of Upper Canada. As the population expanded numerically and geographically it became increasingly difficult to carry out this responsibility from one central office. In 1857, authority was granted for the establishment in each county of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the Province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Crown Attorneys' System is composed of 212 lawyers who specialize in criminal law. In Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and three Crown Counsel, who are assigned to local offices that require temporary assistance, and who also perform various special assignments as delegated by the Director and Deputy Director. There are 47 full-time Crown Attorneys, two part-time Crown Attorneys, four Deputy Crown Attorneys in York County and 155 Assistant Crown Attorneys, 20 of whom are female.

The largest local office is the Judicial District of York, where the Crown Attorney is assisted by four Deputies and 63 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to 11 lawyers. Finally, the Crown Attorneys supervise the 464 part-time

Assistant Crown Attorneys throughout the Province who are engaged on a daily basis from time to time.

Responsibilities

The Crown Attorneys' System is responsible for the conduct of prosecutions under the Criminal Code and other federal statutes such as The Juvenile Delinquents Act. Crown Attorneys also conduct prosecutions under such Provincial statutes as The Highway Traffic Act and The Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They make recommendations to the police and private citizens, who may wish to lay charges, as to the appropriate charge, and appear as counsel for the Crown at show-cause (bail) hearings for the pre-trial release of prisoners, and at trial at all levels of court. Crown Attorneys also watch over private summary conviction prosecutions and intervene if the interests of the community require it.

The following are some of the more significant achievements and/or problems of the Crown Attorneys' system during the year.

1. Inquests

By statute, the Crown Attorney is appointed as Counsel to the Coroner during inquests, and in effect, has a considerable role to play during an inquest. He examines the witnesses, and makes summations to the jury. There are approximately 300 inquests a year which the Crown Attorney, or his assistants, must attend. Many of these inquests are relatively straight-forward, but more and more the inquest seems to be becoming controversial and lengthy. During the year three inquests alone took almost one year to complete.

2. Provincial Offences Act

Several Crown Attorneys and Assistant Crown Attorneys were heavily involved with assisting our Policy Branch in the planning and implementation of the Act. They also assisted in instructing personnel from this Ministry, other Ministries, members of the legal profession, and Law Enforcement Officers concerning the new Act. All Crown Attorneys have been involved as resource persons during the break-in period of the Provincial Offences Act, advising police and other enforcement agencies

The Ministry of the Attorney General

where problems have occurred. In addition, the Crown Attorney conducts all appeals to the Provincial Court taken under the Provincial Offences Act.

3. New Judicial District of York Region

With the establishment of the new judicial district of York Region, a new Crown Attorney's office has been opened in the new courthouse in Newmarket. At the present, it will be staffed by a Crown Attorney, one Assistant Crown Attorney, and one secretary.

4. Workload and Case Backlog

Each year the Crown Attorneys' system prosecutes many complex cases. These involve conspiracy, fraud, and what might be termed "white collar" crime. Each year there are more and more of this type of case. These cases are taking longer and longer to process through the courts, and more of these cases are going to trial than in the past. As well, the trial itself is taking longer. There are many and varied reasons for this, but, society, in general, seems to be more litigious in this era. The cases themselves may involve many hours of studying wiretap transcripts and evidence, and may involve conspiracy, loan sharking, extortion, fraud, etc.

5. Backlog of Serious Cases in the Judicial District of Hamilton-Wentworth

There is a serious backlog of trials and preliminary hearings, arising from complex and lengthy cases in the Judicial District of Hamilton-Wentworth. The reasons for this backlog are many and varied. There is a Joint Forces Operation working in the Hamilton area. This comprises members of the Royal Canadian Mounted Police, the Ontario Provincial Police and the two Regional forces of Halton and Hamilton-Wentworth. As a result there is a considerable success rate in the laying of charges. By their very nature, these cases are complex and very lengthy. Another contributory factor to the backlog is the need for additional Crown Attorneys and Judges to process these cases. Perhaps the most serious reason for the delay between the laying of a charge and the final disposition of a case is the fact that only a small percentage of the defense Bar appears for the various accused in Criminal cases. As a result, due to the commitments of defense counsel, preliminary hearings, particularly, have to be heard piecemeal, a day at a time, with the result

that in some cases the preliminary hearing can stretch out over a year and sometimes two.

6. Training and Development

Each year, the Ontario Crown Attorneys' Association organizes and runs two meetings for Crown Attorneys and their Assistants. These take place in the spring and in the Fall. The Fall meeting is always held in Toronto, the spring conference moves from place to place throughout the province. Professional staff of the Crown Law Office-Criminal, also members of the Ontario Crown Attorneys' Association, attend these conferences. The meetings themselves are educational in nature, with seminars, panel discussions and lectures on legal subjects of current interest. There is an average attendance of between 120 to 150 members of the Association at each conference.

The Ontario Crown Attorneys' Association also runs a summer school. This is held at Massey College in the University of Toronto. There are three courses, one for first-year Assistant Crown Attorneys, one for second-year personnel, the third for more senior and experienced personnel. The courses are available to all members of the Crown Attorneys' Association, by invitation, members of the Crown Law Office-Criminal, lawyers in other Ministries, and Crown Counsel from other provinces, all by invitation. This year the course for all second-year personnel was devoted entirely to advocacy, with practical demonstrations, and much student participation. This year approximately 80 lawyers from the association attended, plus several lawyers from other Ministries, and Crown Counsel from other provinces.

Representatives of the Crown Attorneys' System attended conventions held for Crown Counsel in Alberta, British Columbia and New Brunswick.

Insofar as training and development for support staff goes, five personnel attended management training courses, run by our own Personnel Management Branch, and three persons attended support staff seminars run by the Civil Service Commission.

7. Law Reform

In the past four or five years, there have been a considerable number of working papers and proposals dealing with reform of criminal law in

Canada. These proposals require a response from our Ministry, both in writing and by attending several workshops throughout the year. This response, which has been shared by the Crown Law Office-Criminal and the Crown Attorneys' system, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending several changes to the Criminal Code which have been acted on by the federal government. Representatives of the Crown Attorneys' system attended the Uniform Law Conference in Charlottetown, Prince Edward Island.

8. Criminal Code Review

Senior officials of the Crown Attorneys' system are members of the Government Consultation Group concerned with reviewing the Criminal Code. They meet regularly with the members of the Canadian Law Reform Commission. The group itself consists of members from each province, together with personnel from the federal government. This group was set up approximately one year ago to enable the Provincial governments to have input as to the direction the criminal law is taking. The group meets regularly for three-day sessions, wherein various parts of the Criminal Code receive in-depth study and analysis. Members of this Ministry will continue to form part of this group in following years.

9. Federal-Provincial Task Force on Evidence

In August, 1977, the Uniform Law Conference created a Federal-Provincial Task Force on the law of evidence for the purpose of creating a Uniform Evidence Act (civil and criminal) for Canada. Ontario was represented, as were a number of other provinces and the federal Justice Department, by legal officers from the civil and criminal sectors of the Attorney Generals' departments on a part-time basis. In August, 1979, at Saskatoon, the Conference agreed to create a special research group on a full-time basis to assist the part-time representatives in expediting completion of the Act and the final report. Ontario, Quebec, Alberta and Canada contributed a full-time member for this group. Ontario's representative was taken from the senior experienced personnel of the Crown Attorneys' system and served full-time for 14 months. During this period the Task Force completed a study of and recommendations on 27 identified

areas of the law of evidence. Approximately 38 areas will be dealt with in the final report.

In February 1981, in Ottawa, the final report and completed statute will be examined by representative groups from all provinces and the federal Department of Justice.

10. Regional Crown Attorneys

In 1976 a regionalization program was instituted in which nine existing Crown Attorneys were designated as Regional Crown Attorneys. The Regional Crown Attorneys meet regularly in Toronto with the Director, the Deputy Director and, upon occasion, the Attorney General. The regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their region and the other Regional Crown Attorneys. Regionalization also has regularized the relief system concerning often occurring shortages of manpower, and has strengthened the principle of a uniform administration of justice without undermining the significant contribution local Crown Attorneys have made and will continue to make in the future.

In addition, Regional Crown Attorneys serve on several sub-committees of the Regional Crowns' Council. These committees meet and deal with urgent topics such as uniformity of criminal law, duties of the Clerk of the Peace, education, etc.

11. Provincial Prosecutors

There are 38 provincial prosecutors employed throughout the province, one of whom is a woman. They are assigned to larger Crown Attorneys' offices, particularly those with heavy traffic caseloads. Provincial prosecutors are considered paraprofessionals; they are lay persons, usually with a background in law enforcement. They represent the Crown in Provincial Offences Court, regularly appearing opposite lawyers. They perform a vital and useful function in the Crown Attorneys' system. In several jurisdictions they represent the Crown on Provincial Offences Act appeals taken in the Provincial Court (Criminal Division).

12. French Language Services

French Language Services are being rapidly expanded by the Ministry to cover all areas of the province with a significant French speaking

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population. The Crown Attorneys' system has 29 bilingual lawyers, who are able to conduct trials in French. These lawyers are spread throughout the Crown Attorneys' system, and are assigned to attend in other jurisdictions to conduct trials in French, at the direction of the Director or Deputy Director. The Crown Attorneys' system has more bilingual professional staff than any other branch of the Ministry.

13. Affirmative Action

The Crown Attorneys' system is fully committed to the principles of Affirmative Action. Presently, there are 20 female Assistant Crown Attorneys. This is an increase of 600 per cent in the last four years. Female lawyers in the system have access to all training and development programs, and are encouraged to compete for more senior positions. Insofar as our support staff goes, an attempt is being made to upgrade female employees by on-the-job training. There are two such programs currently in progress, one where a secretary is being trained as a provincial prosecutor, the other where a secretary is being trained as an office manager.

This year, a female Assistant Crown Attorney represented, for the first time, the Crown on the James Bay circuit of the Provincial Court, at Attawapiskat and Fort Albany.

14. Highway Safety

The Crown Attorneys' system has a firm commitment to the promotion of highway safety. There is a strict policy concerning the prosecution of drinking drivers, with particular reference to second and subsequent offenders. During the Fall conference one complete day was set aside and devoted to highway safety. In addition, the Deputy Director is a member of the Ontario Traffic Safety Council, which meets monthly to discuss traffic safety matters of mutual interest to the police, the Ministry of Transportation and Communications, the Ministry of the Solicitor General, the Ontario Police Commission and the Ministry of the Attorney General.

15. METFORS

In the summer of 1977, the Metropolitan Toronto Forensic Service (METFORS) began its operations in two floors of the Queen Street Mental Hospital at 999 Queen Street West, Toronto. METFORS is governed by a Board consisting of the Chairman,

Mr. Peter Rickaby, Crown Attorney for York; a representative from each of the Ministries of Health and Corrections and the Clark Institute; and the Director, who meet once a month to review the METFORS' operation.

Prior to the implementation of METFORS, notwithstanding the efforts of all concerned, substantial delays were experienced in obtaining Court-ordered mental assessments of accused persons. The Courts are interested in the mental stability of a newly arrested accused (if he appears to be suffering from some mental disorder), which might affect his attendance for trial if released on bail, or result in danger either to the public or himself if he were released from custody. The Court also is interested in his fitness to stand his eventual trial.

METFORS is able to provide the Courts within two or three days of the date of arrest with a thoroughly researched assessment which may guide the Courts in determining the often delicate question of bail and the other issues referred to earlier.

Crown Law Office — Criminal

H. F. Morton, Q.C.,
Director

H. G. Black,
Deputy Director

Composition

The Branch comprises 23 lawyers, all of whom are specialists in criminal law. While the total caseload has again increased substantially, the number of criminal lawyers in the Branch has not been increased. This has resulted in a sharp increase in the individual workload borne by counsel.

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Branch's major responsibility and encompass a large portion of our workload due to the increased complexity of the appeals and the increased frequency of court sittings.

2. Special Prosecutions

In the past year, the Branch has continued to prosecute an increasing number of offences which have been referred to as organized crime

prosecutions. As a result of a Tri Force approach to police investigation in this area, charges have been laid against approximately 410 persons involved in organized criminal activities in the past two years. Among the charges are several involving complex conspiracies. Others involve loansharking, extortion, counterfeiting, gambling, burglary, theft, forgery and fraud. There have been several other intensive criminal investigations into patterns of criminal activity that are planned and organized by persons acting in concert.

By way of one example of the significance of the close consultation between Crown prosecutors from this office and the joint forces operations composed of police officers of the Royal Canadian Mounted Police, the Ontario Provincial Police and the Metropolitan Toronto Police Department, is the recent investigation into the waste disposal industry in Metropolitan Toronto. This lengthy investigation led to a series of serious criminal charges laid against the principals of a large waste disposal company operating in Metropolitan Toronto and other areas of southwestern Ontario. It also brought to light allegations of corruption among municipal employees and has led to a host of charges including conspiracy, fraud, theft and bribery which are all currently before the courts.

Counsel in the Crown Law Office are consulted by and advise members of the Task Force at regular intervals in the course of every major investigation. Virtually all of the prosecutions arising out of the Tri Force Unit are handled by counsel from the Crown Law Office – Criminal. Counsel in the Crown Law Office have participated in intensive courses dealing with the prosecution of organized crime at Cornell University.

In addition, the Branch has continued to prosecute an ever-increasing number of complicated commercial transactions involving allegations of fraud, corruption, conspiracy, frauds on the government and obstruction of justice. These prosecutions are complex and take a large amount of preparation and trial time. Liaison with the Fraud Squad and the Internal Affairs Branch of the Metropolitan Toronto Police, the Ontario Provincial Police and the Royal Canadian Mounted Police is an important feature of the Branch's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases. The Ontario

Securities Commission is referring an increasing number of complex investigations involving stock market frauds and manipulations. Consumers protection legislation has also added to the burden of this Branch with special prosecutions under these statutes.

3. Other Court Appearances

Court appearances by lawyers in the Branch also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, extraordinary remedies, the frequency of which has increased dramatically over the past few years, contested motions and summary conviction appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. Counsel appear on applications for leave to appeal and appeals to the Supreme Court of Canada which are heard every two weeks. When such applications are granted, there are more lengthy and subsequent appearances which are required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, in spite of procedural adjustments to standardize court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Branch is to create, within its personnel, a level of expertise in selected specialized areas of criminal law and procedure so as to be able to provide advice to others involved in the administration of justice in the Province who require legal opinions, often on an emergency, or, at least, short-notice basis. To this end, the lawyers in the Branch are constantly encouraged to involve themselves in private research and a variety of academic pursuits including the writing of text books and articles for publication and participating in continuing legal education programs and seminars. Several lawyers in the Branch participate as instructors in The Law Society Continuing Education Programmes, in the

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Bar Admission Course, Criminal Law Section, and the Canadian Bar Association Continuing Legal Education Programmes.

This advisory function also extends to the delivering of lectures and conducting of seminars at many Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

During the past year developments in the administration of criminal justice have prompted renewed interest into a number of complex legal issues. These have all required counsel in the Crown Law Office — Criminal to conduct intensive legal research, formulate legal opinion and exercise sound legal judgment. They have included issues as diverse as the confidentiality of search warrant information, the exercise of prosecutorial discretion, constitutional issues peculiar to the administration of criminal justice in Canada, and the impact of modern investigative techniques on the private lives of Canadian citizens.

5. Committee Work

In the past year, the participation of members of the Crown Law Office — Criminal on various interministerial Committees has increased. Members of our office have participated on Committees dealing with inter alia, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy and psychiatry. In addition, the Crown Law Office is providing intensive legal counsel to The Study of Sects, Cults and Other Groups in Ontario chaired by Dr. D. G. Hill. Counsel in the Crown Law Office also staff the Criminal Justice Advice Service for the victims of racially motivated criminal offences.

6. Justice Policy

In the past year, the Crown Law Office expanded its involvement in the formulation of justice policy matters in the area of criminal law. The most prominent areas of our involvement are as follows:

(i) Drinking-Driving:

The office has a mandate to design, legislate and implement a 24-hour licence suspension system in conjunction with a check stop operation which will be based upon the use of a roadside screening device.

This endeavour is the most recent undertaking by the Crown Law Office in its continuing attempt to reduce the magnitude of the problem of drinking-driving in the Province of Ontario.

(ii) New Provincial Offences Act:

Counsel in the Crown Law Office have been responsible for the design and drafting of the Provincial Offences Act and the Provincial Courts Amendment Act, including all steps preparatory to introduction of the legislation, consultation on systems design, and interministerial consultation and co-ordination. This undertaking included the preparation of a detailed analysis and explanation of the above legislation for distribution to M.P.P.'s and the public at large, together with planning and delivery of seminars for Judges, Justices of the Peace, the police, Crowns, etc.

(iii) Outstanding Fines:

This undertaking included the preparation of fines, together with work on the Interministerial Committee on the Vehicle Registration System.

(iv) Diversion:

In the past year, counsel continued to spend considerable time in examining this concept in preparation of a Ministerial policy.

(v) Community Service Orders:

In May, 1977, the Honourable R. Roy McMurtry, Q.C., Attorney General for the Province of Ontario, announced his decision to implement a program under which persons convicted of non-violent Criminal Code offences might be ordered by a Court to perform community service under supervision and thereby help repay their debt to society.

A Community Service Order is a non-custodial sentencing disposition whereby an offender serves his sentence by performing a prescribed number of hours of community service.

Examples of community service could include: maintenance work for senior citizens and the handicapped such as lawn cutting or snow shovelling and assisting in athletic or recreational programs. Community service orders could also include activities such as pollution cleanup of parks and other public property which would otherwise have to be performed by volunteers or simply go undone. The type of work to be carried out under the Community Service Order program will not eliminate any existing jobs or employment opportunities for persons in the Community.

(vi) Human Rights and Race Relations:

Counsel in the Crown Law Office are engaged in work in this field on an ongoing basis. This involves:

- (a) attendance at all meetings of the Ontario Human Rights Commission (two days per month);
- (b) liaison with the Ontario Human Rights Commission on all matters of mutual concern;
- (c) handling hate literature complaints;
- (d) attending meetings of the Urban Alliance on Race Relations, which operates three pilot projects on which police officers and community members work together on a committee which deals with race relations matters;
- (e) work on a subcommittee of the U.A.R.R. which is preparing a booklet explaining police powers and duties in racial confrontations;
- (f) design of a racial attack response system, which will be operated out of this Ministry to assist complaints in laying and prosecuting charges;
- (g) co-ordination and preparation of the government's response to the Ubale Report;

(vii) Traffic Tribunals:

The Crown Law Office was responsible for the introduction of the traffic tribunal concept to the Borough of North York in 1974 and has maintained its supervisory role on a continuing basis, including the expansion of the concept to three other Metro Toronto Boroughs in 1977. In light of the success of the tribunal concept, and the recommendation of the Select Committee on Highway Safety that the concept be further expanded, counsel in the Crown Law Office will continue to supervise its operation.

(viii) Response to Royal Commissions, etc.:

The Crown Law Office continues to draft Ministry policy, in response to various Royal Commissions. In past years, we have reviewed and responded to both the Shapiro Report of the Royal Commission on the Toronto Jail and Custodial Services and the Ombudsman's Report on Adult Correctional Institutions.

Currently we are working on issues raised by the Krever Royal Commission and the McDonald Inquiry concerning Certain Activities of the Royal Canadian Mounted Police.

(ix) Bilingual Legal Services:

The Crown Law Office has prepared a study of the bilingual trial system in Montreal.

7. Law Reform

In the past four or five years, there has been a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry, both in writing and by attending several workshops throughout the year. This response, which has been shared by the Crown Law Office — Criminal and the Crown Attorneys system, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending several changes to the Criminal Code which have been acted on by the federal government.

The Ministry has also continued its participation on the federal-provincial task force developing uniform rules of Evidence.

8. Extradition

With the advent of white collar crime, international criminals and swift means of travel, and the nearness of international borders, we are now finding that this Branch is called upon almost daily to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute the international criminal, it is now becoming necessary to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries. In co-operation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence.

9. Other Responsibilities

This Branch also handles various administrative matters in the criminal justice field, including transfer of charges under the Criminal Code, transfer of probation Criminal Records Act, the Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving the preparation of formal opinion to other government departments, local Crown Attorneys and others involved in the

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administration of justice in Ontario, constitutes an important part of the Branch's workload.

CIVIL LITIGATION AND LEGAL ADVISORY SERVICES

Blenus Wright, Q.C.,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law, which is divided into the Constitutional Law and Civil Law Divisions, and the Common Legal Services Branch, which provides legal advice and legal services to all Ministries of Government. He deals with conflict of interest matters and is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, and the Law Foundation of Ontario.

Constitutional Law

John Cavarzan, Q.C.,
Director

The Division consists of five lawyers, including the Director.

The regular functions of the Division include advising all ministries on constitutional questions, reviewing litigation in Ontario courts and in the Supreme Court of Canada in which constitutional questions are raised, and engaging in such litigation where advisable.

Federal-Provincial Conferences

In the previous annual report, a detailed outline was given of the greatly expanded role of the Division in connection with the continuing series of federal-provincial constitutional conferences on amendment of the British North America Act, and on proposals for disentanglement of federal and provincial government programs. Two federal elections and the approach of referendum day in Quebec has resulted in a shift in emphasis, during the current fiscal year, from the ongoing constitutional review process to the proposals generated in the referendum debate in Quebec.

The Division has continued to maintain close liaison with the Ministry of Intergovernmental Affairs and with other interested ministries.

Members of the Division assisted at the following federal-provincial conferences during the year:

Meeting of the Council of Provincial Justice Ministers

September 9-11, 1979

Continuing Committee of Ministers on the Constitution

October 22-23, 1979

Continuing Committee of Officials on the Constitution

November 15-16, 1979

Federal-Provincial Conference of Deputy Ministers Responsible for Criminal Justice

February 11-13, 1980

Each of the above conferences required extensive preparation of materials and follow-up work to implement decisions taken and generally to advance the goals of the conferences.

Litigation Services

With respect to the normal operations of the Division, the Attorney General received 28 notices of constitutional questions being raised in the Ontario courts and 19 notices of constitutional issues in cases before the Supreme Court of Canada. These notices require analysis of the questions involved and assessment as to the advisability of the Attorney General of Ontario being represented. In the result the Division represented the Attorney General of Ontario in 21 cases. In addition, members of the Division co-operated with members of the Civil Law Division and the Crown Law Office (Criminal) in questions arising in matters dealt with by them.

Important cases in the Supreme Court of Canada in which the members of the Division took part during the year include:

Dominion Stores Ltd. v. The Queen

Dominion Stores Ltd. was charged under the Canada Agricultural Products Standards Act with having in possession for sale apples under a grade name prescribed under that Act which did not meet the prescribed standards of quality. At the outset of the proceedings a preliminary objection was taken on behalf of Dominion Stores Ltd. that the federal regulations were ultra vires insofar as they purported to apply to local trade in the Province. The provincial judge

gave effect to this objection. He stated a case for an appeal against his judgment. The High Court of Ontario and the Court of Appeal for Ontario reversed the provincial judge and held that the regulations were valid. On appeal to the Supreme Court of Canada it was held that the regulations were invalid in their application with respect to local trade in the Province.

Reference as to Powers of Parliament to Abolish or to Make Changes in the Character of Senate

The Governor General in Council referred two questions to the Supreme Court of Canada, namely, whether Parliament had authority to abolish the Senate and whether Parliament had authority substantially to alter the nature of the Senate. The Attorney General of Ontario intervened to argue against Parliament having this power. The Supreme Court of Canada held that Parliament did not have the authority.

R. v. Ritcey

This was an application for certiorari in the courts of the Province of Nova Scotia to quash various acquittals and sentences made by a county court judge after his resignation, in matters which he had heard before his resignation. The Judicature Act of Nova Scotia provided that after his resignation a judge had eight weeks to give judgment on matters that he had heard before. The courts of Nova Scotia had held that this provision in The Judicature Act was ultra vires in its application to criminal proceedings. A similar provision is contained in The Judicature Act of Ontario. The Attorney General of Ontario intervened in the appeal to the Supreme Court of Canada to support the validity of the provincial legislation. The Supreme Court held that the provincial legislation was intra vires the powers of the provincial legislature as legislation in relation to the administration of justice.

R. v. Aziz

In this case, the Attorney General of Canada preferred an indictment against the accused for the offence of conspiracy to commit an indictable offence under the Narcotic Control Act. The offence of conspiracy is created by the Criminal Code. The court of Appeal for Quebec held that the indictment was invalid. The

preferring of the indictment for a criminal offence is an essential part of the responsibility and authority of the Attorney General for the Province to supervise and control the enforcement of the criminal law as part of the provincial responsibility for the administration of justice and is within his exclusive authority. The case is under appeal to the Supreme Court of Canada and the Attorney General of Ontario has intervened to support the authority of the Attorney General of the Province.

Canadian Pioneer Management Ltd. et al. v. Labour Relations Board of Saskatchewan et al.

The plaintiff corporations, federally incorporated trust and insurance companies, challenged the jurisdiction of the Saskatchewan Labour Relations Board to certify bargaining units for purposes of collective bargaining. They alleged that their employees were engaged in "banking" activities and in insurance activity extending to more than one province in Canada. The Saskatchewan courts had upheld the applicability of the provincial labour relations legislation. The Attorneys General of Ontario and of several other provinces intervened to support Saskatchewan in this case. The Supreme Court of Canada upheld the decision of the Saskatchewan Court of Appeal and, in the process, supported regulation by the provinces of the insurance business and of non-bank financial institutions.

R. v. Boggs

The Supreme Court of Canada has granted leave to appeal on the question of the constitutional validity of the Criminal Code provision creating the offence of driving while one's licence has been suspended pursuant to provincial law. The appeal will likely be heard in the Spring term.

The following cases in other courts are also of significance:

Shoal Lake Band of Indians No. 39 et al. v. The Queen in Right of Ontario

This was an application by way of judicial review to set aside the decision of the provincial Ministry of Natural Resources made under the federal Ontario Fisheries Regulations establishing quotas for fishing for pickerel in Shoal Lake. It was argued that the action of the Ministry in establishing the quotas was ultra vires and beyond the constitutional powers of the provincial

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authorities and that even if it was constitutional the procedure in establishing the quotas was unfair. The case raised questions of legislative authority in relation to fisheries, Indians and public lands. Both arguments were rejected and it was held that the quotas were validly established and should not be set aside.

R. v. Hoffmann-La Roche Ltd.

The Attorney General for Canada preferred an indictment against the accused charging the accused under section 34(1)(c) of the Combines Investigation Act with selling its drugs, librium and valium, at unreasonably low prices to hospitals across Canada having the effect of or tending or designed to substantially lessen competition or to eliminate competitors. By way of defence it was argued that the Attorney General of Canada had no authority to prefer the indictment. It was argued that since the Combines Investigation Act has been held to be within the authority of Parliament relating to the enactment of criminal law, the exclusive authority to prefer an indictment was vested in the Attorneys General of the Provinces as part of the administration of justice. The Attorney General of Ontario intervened to argue that the Attorney General of Ontario had exclusive authority to prefer the indictment. The trial judge held that the Combines Investigation Act fell within the authority of Parliament, not only under the heading, "Criminal Law", but also as legislation in relation to the "Peace, Order and Good Government of Canada" and in relation to "The regulation of Trade and Commerce". He therefore held that the indictment had been validly preferred by the Attorney General of Canada. The case is under appeal to the Court of Appeal.

Reference re Residential Tenancies Act, 1979

The Lieutenant Governor in Council referred to the Court of Appeal of Ontario for hearing and consideration two questions relating to The Residential Tenancies Act, 1979, namely, whether it is within the legislative authority of the Legislative Assembly of Ontario to empower the Residential Tenancy Commission, a commission whose members are appointed by the Lieutenant Governor in Council, to make orders evicting a tenant or orders requiring landlords and tenants to comply with obligations imposed under The

Residential Tenancies Act, 1979. The argument attacking the validity of the legislation rested on section 96 of the B.N.A. Act. It was argued that the Residential Tenancy Commission was given the powers of a Superior Court and that the members thereof should be appointed by the Governor General in Council of Canada as judges of Superior, District or County Courts. The Court of Appeal for Ontario held that the establishment of the Residential Tenancy Commission with powers to make orders of eviction or compliance was beyond the authority of the Legislative Assembly of Ontario. The case is under appeal to the Supreme Court of Canada.

R. v. Cottrell Forwarding Co. Ltd.

This was an appeal by way of stated case to the Supreme Court of Ontario from a decision of the Provincial Court (Criminal Division) finding inapplicable, on constitutional grounds, certain provisions of The Public Commercial Vehicles Act of Ontario. The accused company carries on business as a freight forwarder without the requisite licence under The P.C.V. Act.

The accused company maintained that because it arranges for interprovincial transportation of goods by a combination of truck and railway transport, it is subject to regulation of its business only by Parliament. This matter was heard in February and March, and a decision is pending.

Sandy v. Sandy

The Ontario Court of Appeal held that The Family Law Reform Act applies to Indians, but not to their real property situated on a Reserve.

R. v. Pool World

The validity of The Retail Business Holidays Act was upheld in proceedings in the Provincial Court (Criminal Division).

Fred Astaire Dance Studios (F.A.D.S.) and Kester

This case involves a challenge to provincial jurisdiction to enact The Business Practices Act arising in the prosecution of the dance studio and its officers under the Act. The provincial legislation has been upheld in County Court. However, appeal to the Court of Appeal is now pending.

**R. v. Cambert Automotive Transmission
operating as AAMCO Automotive Transmissions**

The constitutional validity of The Business Practices Act was challenged in the Provincial Court in the trial of charges laid under the Act. The Court held that the legislation which prohibits specified unfair practices is valid and is not criminal law within the exclusive jurisdiction of Parliament. An application for judicial review has been filed.

**Ontario Public Service Union v. Attorney
General of Ontario**

The provisions of The Public Service Act prohibiting public servants from engaging in some forms of partisan political activities was challenged on the ground that they interfere with federal elections and the fundamental rights of Canadian citizens. The Supreme Court of Ontario upheld the validity of the legislation. An appeal has been launched.

R. v. Dagmar Construction Ltd.

This was an appeal to the Divisional Court from a decision of the County Court upholding the conviction of the accused for violation of The Construction Safety Act. The validity of the Act was challenged on the ground that section 14(3), requiring adherence to safety standards, was criminal law. The Divisional Court ordered a new trial of the charges on other grounds.

Advisory Services

The Division was called on for legal opinions and advice on the constitutionality of both provincial and federal legislation and proposed legislation, on a wide variety of subjects. In addition, members of the Division participated in the proceedings of six interministerial committees primarily to provide advice on constitutional issues.

Statistical Summary for Fiscal Year 1979-80

Litigation	79/80	(78/79)
Notices of constitutional issues given under section 36, Judicature Act	28	(26)
Notices of constitutional issues from Supreme Court of Canada	19	(16)

Constitutional Cases undertaken (argued or assistance provided)	23	(19)
Written Opinions and Advice (includes opinions requested on proposed federal and provincial legislation)	47	(43)
Many Informal Opinions given in meetings and consultations with other Ministries		
Meeting of the Council of Provincial Justice Ministers	1	} (10)
Federal-Provincial Conference of Deputy Ministers Responsible for Criminal Justice	1	
Continuing Committee of Ministers on the Constitution	2	
Participation in Interministerial Committees	6	(4)

Program of Operations for the Fiscal Year 1980-81

The Division does not initiate legislative or administrative programs but simply renders legal services on demand on behalf of the Government of Ontario. The Division was established about three years ago. It is expected that with the increased expertise acquired by members of the Division, services may be rendered with increasing efficiency in the future.

In the past year, there has been an increase in the number of requests for opinions. The figures do not reflect the fact, however, that the questions investigated for such opinions are becoming increasingly complex. Each such opinion requires a substantial time commitment on the part of Division counsel and support staff.

Civil Law

Julian Polika, Q.C.,
Director

The Branch consists of 20 lawyers, including the Director, and provides independent legal service for all Ministries of the Government, especially in the area of civil litigation.

Workload

There has been no abatement in the growth of the amount of work in the Branch. The total number

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of cases assigned was 3,216 as opposed to 2,049 for the previous year. As of March 31, 1980, there were in excess of 2,500 cases on hand as opposed to 2,100 cases for the previous year. As in the past, approximately 25 per cent of new cases handled were in the area of serious litigation, that is applications for judicial review, Supreme Court of Ontario actions or actions in other Courts such as the Federal Court of Canada. Approximately 30 per cent were motor vehicle actions in all levels of court. Some 230 opinions were provided.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of Civil litigation and opinions, the work has increased and become more varied. In particular, there has been an increase in litigious and advisory matters involving sheriffs and the Court system. The Branch has also been involved in a great number of interpleader applications.

Serving Other Ministries

Work done for the Ministries continues to increase and involves appearances on behalf of the Government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various boards and tribunals and conducted provincial prosecutions on behalf of a number of Ministries. For those Ministries and other governmental bodies who are not served by the Common Legal Services program the Branch provided a complete legal service.

Law Reform

Over the past few years, there have been a considerable volume of reports, working papers and proposals dealing with the reform of provincial law. These proposals have required response from the Ministry. The Branch has shared in the response by writing and participating in programs and seminars throughout the year.

The Branch has a permanent delegate on the federal-provincial task force developing uniform Rules of Evidence and has carried its share

in the preparation of background papers for discussion by the task force.

The enactment of The Provincial Offences Act, 1979 has required the provision of educational programs by the Ministry for those individuals involved in that aspect of the justice system. Counsel from the Branch has assisted in the conduct of such programs.

Particular Services Rendered

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and, by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1979/1980, 274 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 111 of these applications.

2. Claims for and against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents or trademarks.

In the fiscal year 1979/1980, the Branch opened 465 such files, excluding claims pertaining to motor vehicle accidents, mechanics' liens and expropriation matters.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the Government in respect of motor vehicle accident claims where the Government or an employee of the Government has a claim against an individual. Claims against the Government where the Government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims Director; if settlement is not possible an action is brought in the

appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1979/1980, 713 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the exception that a lien could not be attached to property of the Crown. In the fiscal year 1979/1980, 87 such actions were handled by the Branch.

5. Expropriations

Over the last three years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportation and Communications and the Ministry of Government Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the Courts. In the fiscal year 1979/1980, 24 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various Boards and Tribunals, for example, the Game and Fish Hearing Board, The Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code.

In the fiscal year 1979/1980, 108 cases were handled in this particular area.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the Courts in divorce actions and other related matrimonial causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The Courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present, the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year

1979/1980, 119 Queen's Proctor matters were reviewed and counsel within the office actively dealt with 44 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or when the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of the Ministry of Natural Resources under The Game and Fish Act and related statutes. In the fiscal year 1979/1980, 10 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions

The Branch, in response to specific inquiries from the Ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation, or as a result of litigation. In the fiscal year 1979/1980, 230 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the Ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Council's office to see that those changes are carried out.

On a day-to-day basis, legal officers answer public inquiries pertaining to statutes administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the Ministries and, in particular, to the Ministry of Industry and Tourism, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

12. Petitions to Cabinet

Counsel in the Branch are responsible for preparing petitions to Cabinet originating primarily because of statutory provisions in

The Ministry of the Attorney General

The Ontario Municipal Board Act and The Ontario Highway Transport Board Act. In the fiscal year 1979/1980, 163 such matters were received.

Statistical Review of 1979/1980 Workload

The chart set out below shows that 2,216 files were assigned in the fiscal year ending March 31, 1980, an increase of 8.2 per cent over the preceding fiscal year. An important trend has developed in that the present level of intake is 184.7 files per month as compared to 170 for the previous fiscal year but on a more uniform basis by month.

The Director reviewed 394 matters pertaining to applications for judicial review, Queen's Proctor matters and habeas corpus applications and it was decided after consultation with the appropriate Ministry, where applicable, not to intervene in 239 of those cases.

At the close of the fiscal year on March 31, 1979, counsel in the Branch had on hand in excess of

2,500 files. These ongoing files reflect matters which take time to process and finalize.

Forecast of Operational Activities

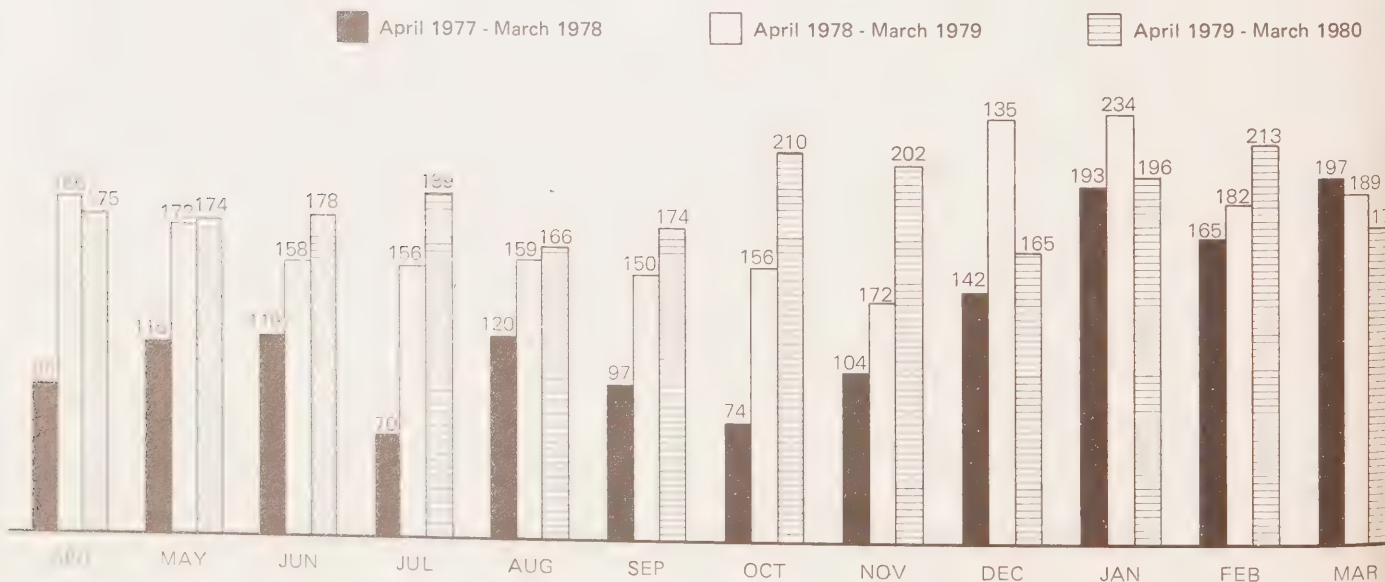
The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1980/1981, the Branch will handle some 2,400 new cases in addition to the carryover of 2,500 cases. It is not possible to determine with any accuracy the actual increase as Branch work is determined by unpredictable factors.

French Language Instruction

In the fiscal year 1979/1980, eight lawyers on staff were on French language conversation courses. This program will continue through 1980/1981. The program is in keeping with the introduction of the French language into the Court process in Ontario.

Number of Cases Assigned by Month



Total Number of Cases for Year Ending

{ March 31st, 1978 - 1,491
 { March 31st, 1979 - 2,049
 { March 31st, 1980 - 2,216

Common Legal Services

J. B. Gleason, Q.C.,
Director

Legal Services to Ministries

The Common Legal Services program involves the provision of legal services to all Ontario Government Ministries. The Director is responsible for the development of a unified approach to legal opinions, evaluation of legal services provided, and career development.

There are 21 legal branches located in the various Ministries, varying in size up to 18 lawyers, all of whom are employed by Common Legal Services on behalf of the Attorney General. In total the Common Legal Services has 245 professional, secretarial, clerical and para-legal persons in its employ.

Common Legal Services is also responsible for retaining private sector counsel where such services are required by the Government.

Professional Development

Professional development of lawyers is a continuing objective of Common Legal Services. Attendance at educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society, provides opportunities for lawyers to keep up with the changes in the law. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are on the increase, creating more career opportunities for government lawyers.

Liaison with Boards, Official Guardian, Public Trustee

The Director has a liaison responsibility between the Ministry and the Assessment Review Court, the Land Compensation Board, the Ontario Municipal Board, the Board of Negotiation and the Criminal Injuries Compensation Board, the Official Guardian and the Public Trustee.

Chief Inquiry Officer

The Director spends considerable time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act. This involves the retainer of and the liaison with inquiry officers throughout the Province

and a large area of communications with the public in relation to The Expropriations Act generally.

Office of the Official Guardian

L. W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of the Judicature Act and The Child Welfare Act.

General

The office has a regular staff of 67 and seven law students. It also uses the services of lawyers who act as agents throughout the Province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian participates in a Court Conciliation Project designated to preserve the sanctity of family life from improvident dissolution of marriages to the detriment of families in general and children in particular.

The Official Guardian was a member of the committee which revised the Rules of Practice of the Supreme Court of Ontario.

The Official Guardian provides independent representation for children in matters arising out of the Unified Family Court Project in Hamilton as well as representation for unrepresented mentally incompetent persons who refuse medical treatment under the Mental Incompetency Act. He is also an ex-officio member of the Interministerial Committee on consent to medical treatment.

Under Section 20 of The Child Welfare Act, which was implemented on February 1, 1980, the Official Guardian provides independent legal representation for children in protection cases in the Family Court.

The basis of the program is the utilization of 400 members of the private Bar who provide this legal service under the supervision of this office.

The Ministry of the Attorney General

The office prepared manuals and conducted training sessions for panel members in five areas of the Province. These sessions covered substantive and procedural law. The training staff included not only members of the official Guardian's legal and social work staff, but also representatives of the other social service and behavioural science disciplines. The courses have been accredited by the Law Society in the Family Law and Divorce preferred areas of practice.

The Official Guardian, with the assistance of members of his staff, served on the Civil Procedures Revision Committee and on the Interministerial Committee on Medical Consent and Guardianship in addition to providing an ongoing review of pending legislation related to family and child law.

The Branch continues to process applications on behalf of minors to the Injuries Compensation Board, with particular emphasis on the implications of child abuse.

The Official Guardian is also required by The Child Welfare Act to determine what action should be taken against child abusers.

Increasing Demand

The Official Guardian tries to contribute to developments in family and child law and to meet

new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate protection of the personal rights of minors in addition to the traditional protection of their proprietary interests. Judges are now appointing the Official Guardian ad litem (counsel) to represent children in custody and access proceedings.

Another major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian provides legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placement of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

The Official Guardian continues to provide legal assistance for minors who are apprehended by Children's Aid Societies under Part II of the Child Welfare Act in cases in which there is conflict between the Societies' proposal and the wishes of the minor.

Report of Operations

The statistical data for the fiscal year 1979-80 and for the calendar years 1976 through 1979 is as follows:

Surrogate Court Audits	1976	640	(Increase in 1976)	32
	1977	594	(Decrease in 1977)	46
	1978	605	(Increase in 1978)	11
	1979	571	(Decrease in 1979)	34
Fiscal Year 1979/80 — 560				
Matrimonial Causes New Matters	1976	13,378	(Increase in 1976)	640
	1977	13,423	(Increase in 1977)	45
	1978	13,733	(Increase in 1978)	310
	1979	14,333	(Increase in 1979)	600
Fiscal Year 1979/80 — 14,091				
Number of Payments into Court	1976	232	(Increase in 1976)	43
	1977	285	(Increase in 1977)	53
	1978	274	(Decrease in 1978)	11
	1979	287	(Increase in 1979)	13
Fiscal Year 1979/80 — 278				

New Fiats authorizing payments out of Court for maintenance and other purposes

1976	417	(Increase in 1976)	33
1977	458	(Increase in 1977)	41
1978	464	(Increase in 1978)	6
1979	475	(Increase in 1979)	11

Fiscal Year 1979/80 — 504

Number of Payments out of Court pursuant to existing Fiats

1976	1,787	(Increase in 1976)	180
1977	1,883	(Increase in 1977)	96
1978	1,864	(Decrease in 1978)	19
1979	1,856	(Decrease in 1979)	8

Fiscal Year 1979/80 — 1,877

General Counsel Work in Matters arising out of: The Child Welfare Act; The Dependents' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act;

The Infants Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act; The Wills Act; The Insurance Act; The Mortgages Act; The Partition Act.

1976	1,325	(Increase in 1976)	200
1977	2,010	(Increase in 1977)	685
1978	1,330	*(Decrease in 1978)	680
1979	1,299	(Decrease in 1979)	31

Fiscal Year 1979/80 — 1,337

Child Representation in Custody and Access Matters

1977	127	(Increase in 1977)	48
1978	172	(Increase in 1978)	45
1979	200	(Increase in 1979)	28

Fiscal Year 1979/1980 — 200

1978 1200
Child Welfare Counsel Work 1979 556
(*Previously shown under General Counsel Work)
Fiscal Year 1979/80 — 823

New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the Years

1976	17,858
1977	18,780
1978	19,642
1979	19,577

Fiscal Year 1979/80 — 19,680

The Ministry of the Attorney General

Forecast of Operational Activities

The Office of the Official Guardian will continue to render legal services on behalf of persons under a legal disability consisting mainly of minors and mental incompetents. It will also keep abreast of and contribute to developments in family and child law and exercise its specific responsibility to provide independent representation in relation to the Unified Family Project in Hamilton. A Branch activity will continue to be the implementation of Child Representation in Part II applications under The Child Welfare Act. This program will involve not only an accelerated delivery of legal services in these matters by staff counsel but also the development, administering, training and monitoring panels composed of some 500 solicitors from the private bar who provide this service throughout the Province.

Child Representation in Custody and Access Matters

1980-81	350
1981-82	400
1982-83	500
1983-84	600

Child Welfare Counsel Work (included under General Counsel Work in 1978/79)

1980-81	3,000
1981-82	3,500
1982-83	4,000
1983-84	4,500

Forecast of the Program and Activities for the Fiscal Year 1980/81 and the Three Succeeding Years:

Surrogate Court Audits	1980-81	600
	1981-82	600
	1982-83	600
	1983-84	600

Matrimonial Causes New Matters

1980-81	14,500
1981-82	15,000
1982-83	15,500
1983-84	16,000

Payments Into Court

1980-81	300
1981-82	300
1982-83	300
1983-84	300

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

1980-81	550
1981-82	600
1982-83	650
1983-84	700

Payments Out of Court Pursuant to Existing Fiats

1980-81	2,000
1981-82	2,100
1982-83	2,200
1983-84	2,300

General Counsel Work

1980-81	1,400
1981-82	1,500
1982-83	1,600
1983-84	1,700

Public Trustee

A. J. McComiskey, Q.C.,
Public Trustee

Duties

The work of the office of the Public Trustee is divided into four main sections, namely:

1. The administration of estates of patients of psychiatric facilities who have been certified under The Mental Health Act or persons who have been declared incapable of managing their own affairs by Order of the Court under The Mental Incompetency Act;
2. Administering estates under the provisions of The Crown Administration of Estates Act of persons dying in Ontario intestate and without next-of-kin in Ontario;

3. Acting in a supervisory role over charitable organizations under the provisions of The Charitable Gifts Act, The Charities Accounting Act and The Mortmain and Charitable Uses Act;

4. Assisting in the corporations legal field by entering into agreements to manage assets of corporations who seek to wind up their endeavours but cannot locate some of their shareholders who would be entitled to share on a final distribution, and also by supervising applications under The Escheats Act for relief and forfeiture when companies have had their charters cancelled while still being the legal owners of real or personal property.

Related to these main divisions of responsibilities the Public Trustee is frequently called upon to perform varied services to the public where there is no other individual or organization that is ready or able to perform the services. The Public Trustee acts as an executor of estates when so appointed by a testator, administers trusts under The Cemeteries Act, The Workmen's Compensation Act and The Compensation for Victims of Crime Act, and sometimes is appointed directly by the Court to act as trustee of substantial damage awards when the plaintiff in the action appears to be incapable of handling a large sum of money, although is not necessarily mentally incompetent.

General Operations

As time passes the work of the office seems to change in imperceptible ways that are only recognized after several years. Recently more lawyers have become aware of the problems created for charitable organizations by the terms of The Mortmain and Charitable Uses Act. As this Act has become better known to the legal profession, many charitable organizations and their solicitors realize that their titles to real property are defective and applications to the Court for Orders have become more frequent.

Investment policies in the office have become changed so that funds of individual estates are invested directly on behalf of that estate rather than as part of bulk investment. This program has substantially increased the return to the individual estate, but the administration of these investments does add to the work load of the office.

The total number of patients whose assets are being administered under The Mental Health Act or The Mental Incompetency Act has not increased substantially, but the turnover of estates has increased. Patients who years ago might have spent years in a psychiatric facility are now very frequently examined, placed on a medication program and released back to their families and friends. As a result, the office of the Public Trustee is asked to manage more estates for a shorter period of time.

In order to improve the communications between staff at psychiatric facilities and estates officers on the staff of the Public Trustee, efforts were made to make each branch of the service to the patients more familiar with what was done on the other side. Social workers have been invited to the office of the Public Trustee, estates officers have made visits to psychiatric facilities as observers, and representatives from the office of the Public Trustee have attended meetings at psychiatric facilities, and of community organizations and mental retardation associations to explain what services are performed by the Public Trustee.

Financial Operations

The office of the Public Trustee is not only self-sustaining but income producing. The Public Trustee receives legal fees, compensation as an executor, administrator or Committee and interest from investments made. These sources of income enable the Public Trustee to pay all of the operating expenses of the office and to show a profit which from time to time is paid to the consolidated revenue fund.

Future Role

It has been many years since the whole philosophy and operation of the office of the Public Trustee has been reviewed. I am glad to say that a Committee under Mr. H. A. Leal, Q.C., Deputy Attorney General, is now in the process of reviewing the objectives and administration of this office so that the philosophy and performance will more closely match the present needs.

The financial status of the office as at March 31, 1980 is shown in the following Statement of Revenue and Expenses and the Balance Sheet.

The Ministry of the Attorney General

Statement of Revenue and Expenditure Year Ended March 31, 1980

	<u>1980</u>	<u>1979</u>
Revenue		
Fees: Patients' estates	\$ 1,499,881	\$2,058,680
Crown estates	737,033	473,697
Special trusts	135,202	160,130
Company trusts	7,866	16,548
Cemetery trusts	18,405	17,082
Charities	52,537	40,092
	<u>2,450,924</u>	<u>2,766,229</u>
Bank interest	12,074	13,529
Income from funds invested, net (schedule B)	3,932,659	4,184,009
	<u>6,395,657</u>	<u>6,963,767</u>
Deduct debit balances written off	986	296
	<u>6,394,671</u>	<u>6,963,471</u>
Expenditures		
Salaries	2,575,781	2,408,439
Employee benefits	385,584	362,163
Transportation and communication	82,958	73,517
Services	482,903	544,316
Supplies and equipment	87,806	83,475
	<u>3,615,032</u>	<u>3,471,910</u>
Excess of Revenue over Expenditure	<u>\$ 2,779,639</u>	<u>\$3,491,561</u>

Statement of Surplus Year Ended March 31, 1980

	<u>1980</u>	<u>1979</u>
Balance at Beginning of Year	\$ 9,086,154	\$5,596,593
Less reimbursement of payment from Assurance Fund	<u>—</u>	<u>2,000</u>
	9,086,154	5,594,593
Add excess of revenue over expenditure	<u>2,779,639</u>	<u>3,491,561</u>
Balance at End of Year	<u>\$11,865,793</u>	<u>\$9,086,154</u>

Balance Sheet as at March 31, 1980

	<u>1980</u>	<u>1979</u>
Assets		
Estates and Trusts		
Cash in bank	\$ 89,514	\$ 231,753
Funds invested (schedule A)	90,140,000	85,495,000
Bonds (note 1b)	51,836,275	37,938,721
Stocks (note 1b)	5,375,292	4,038,307
Mortgages receivable	2,648,425	2,167,946
Real estate (note 1c)	27,055,523	24,837,663
Pensions and life insurance (note 1d)	27,557,055	25,332,664
Miscellaneous	3,386,490	2,181,351
	<u>208,088,574</u>	<u>182,223,405</u>
Deduct mortgages payable	1,099,170	1,036,352
	<u>206,989,404</u>	<u>181,187,053</u>
 Administration Fund Account		
Cash in bank	44,073	37,797
Funds invested (schedule A)	12,230,000	9,480,000
	<u>12,274,073</u>	<u>9,517,797</u>
	<u>\$219,263,477</u>	<u>\$190,704,850</u>
 Liabilities		
Estates and Trusts		
Patients' estates	\$157,596,265	\$136,990,105
Crown estates	17,724,852	14,138,269
Probable escheats	8,693,677	8,575,996
Special trusts	13,002,506	12,301,922
Company trusts	4,486,355	4,099,412
Indian trusts	178,101	184,513
Unclaimed balances	357,744	305,879
Cemetery trusts	4,883,075	4,524,640
Child Welfare trusts	66,829	66,317
	<u>206,989,404</u>	<u>181,187,053</u>
 Administration Fund Account		
Current liabilities	208,280	231,643
Assurance fund	200,000	200,000
Surplus	11,865,793	9,086,154
	<u>12,274,073</u>	<u>9,517,797</u>
	<u>\$219,263,477</u>	<u>\$190,704,850</u>

The Ministry of the Attorney General

COURTS ADMINISTRATION DIVISION

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

M. S. Fitzpatrick,
Inspector of Legal Offices and Deputy Director of
Courts Administration

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

Supreme, County and District and Surrogate Court Offices

R. W. Schurman,
Director

B. C. Pitkin,
Deputy Director

The office of the director provides administrative direction for the Supreme, County and District and Surrogate Courts and Sheriffs' Offices. In liaison with a regional co-ordinators' council, the office develops and implements Ministry policy relating to procedures and

methods, and provides for the day-to-day delivery of the program.

In an effort to meet the growing demand for service, a number of training seminars have been conducted throughout the last year for both officials and staff. The seminars ranged in content from highly technical material for officials and their deputies, to more routine information for staff members. The seminars were greeted with enthusiasm by all participants and will be continued this coming year.

The Courtroom Procedure Manual and the Supreme and County Court Flow Chart Manual were both introduced successfully into the system during the last year. They have proven to be effective as both a teaching aid and handbook for office use. As the next step this branch has already begun a review of the Sheriff's Manual.

The new Sheriff's Manual is being expanded to incorporate many of the opinions given by the Crown Law Office over the past few years. The new manual is expected to be ready within the year for distribution, with requests having already been received from other provinces.

Implementation plans for a new Judicature Act and the proposed Williston Rules have been prepared. The Education Committee of the Sheriffs and Local Registrars are prepared to finalize a seminar program that will provide effective means of introducing the new act and rules to the court staff.

Court Reporting

Tom Moran,
Manager

The Manager, Court Reporting Services, provides administrative control of all reporting services to all Court levels throughout the Province, including Special Examinations and certain Boards and Commissions. Direction and support is also provided to the offices of Special Examiners in the private sector in Toronto, Hamilton, St. Catharines, Windsor, Ottawa and Timmins.

The establishment of reporting standards and the training and development of competent reporters continues to receive priority. With the co-operation of the Court Reporters' Association, a reporters' Manual is currently being prepared dealing with format and procedures at the various Court levels.

The George Brown College reporter program continues to be an invaluable source of trained court reporters, and the three-week in-Court experience provided at the County and Provincial Court levels to students in this course has been very beneficial.

The Chartered Shorthand Reporters' Association also offers the opportunity to reporters to upgrade their skills to C.S.R. standards by conducting special classes on Saturday mornings.

The volume, length and complexity of court cases continues to put a great strain on our limited reporting staff and again it has been necessary to expand even further the use of freelance reporters to cover the shortfall in reporter complement and to keep the courts fully operational.

During the year a number of reporter vacancies were designated as bilingual and recruitment to fill these vacancies proved successful. Bilingual reporting services are now available at all Court levels.

Provincial Court Offices

A. K. Mackay,
Director

The administrative staff of the Provincial Court Offices provide clerical, stenographic, court-support and court-reporting services for the Provincial Courts, both Criminal and Family Divisions. The staff also provides accounting, recruitment, training and other services required by the Ministry.

Government constraints over the past several years have increased the pressure on the court managers, requiring a high level of managerial skill to cope with increased workload combined with fixed manpower resources. The staffing freeze that was imposed lasted for many months and when lifted in September created a serious recruitment/training problem. The skills of our management group has permitted us to cope with these problems.

Family Law Reform Act and Legislation Pertaining to Children

The Family Law Reform Act, which came into effect March 31, 1978, created some administrative problems. The expertise gained during the past

fiscal year by all members of the Family Court staffs have now overcome most of the problems and this legislation is being handled smoothly.

Amendments to The Child Welfare Act and other children's legislation have also created new challenges for court administrators. For example, the amendments transferred adoptions from the superior courts to the Provincial Court (Family Division), which created new duties for many staff members.

As we enter our new year we are still in the transitional stage of these major reforms in family and child legislation and so an indepth analysis of the impact cannot be made. From the experience that we have obtained during the past year, there is every reason to be confident that the Family Courts will be able to absorb these changes and effectively handle the new matters being received.

Family Court Office Standards

The Family Court offices throughout the province had been operating for many years without benefit of standard office procedures and systems. During the past year a group of Family Court administrators, assisted by members of our Systems Development Branch and Audit Branch, were organized into a task force to develop a manual of office procedures. These people, called from many districts throughout the province, all were experienced Family Court administrators. Working together they developed a very fine manual of office systems. Last Fall all the court administrators, along with some senior members of their staffs, were called to regional meetings to review the new manual.

Implementation of the new systems commenced January 1, 1980, and will be reviewed annually to improve the initial program.

Provincial Offences Act

The new legislation, which received third reading in March, 1979, with an implementation date of March 31, 1980, required a complete change of both our computer and manual office systems and procedures.

A task force was organized to do the necessary work under the guidance of David Thornton, former Deputy Director of Provincial Court Offices. Norman Harris was seconded from

The Ministry of the Attorney General

Management Board to be Director of the Task Force and organized two groups, one to do the programming changes for the Toronto and Oshawa computer systems, and the other to prepare a complete manual of operations for those offices not presently on computer systems.

The task force also provided trainers to introduce the new systems to the court administrators. Several court administrators from different locations in the province were used as an advisory group and from that group the training staff was developed under the guidance of George Eno, the Ministry's training officer.

Through this major project, Chief Judge Hayes provided invaluable assistance and advice.

The manuals of operation and the training of staff were completed in December and necessary new forms were developed and printed in time for the April 1 implementation date.

The Ministry recognizes the effort of the many individuals involved in this project, and the Minister has acknowledged to each his appreciation.

The impact of the new Provincial Offences Act upon the resources of the courts will be carefully monitored but there is no doubt that it will have a major effect on court facilities and court staff, as well as on the major court users.

New Court Systems and Methods

As reported last year, a pilot project using a mini computer had been implemented in the Oshawa Criminal Division office. After a 12-month period in operation, the project appears to be a successful one.

At present, the Ministry is presenting a brief to Management Board asking for approval to implement the same system in the seven major offices, by volume of cases, outside of the Metropolitan Toronto courts.

The Metropolitan Toronto Cyclop system, now eight years old, requires a major updating and the possibility of a completely new system is under study. The introduction of the Provincial Offences Act has changed our requirements dramatically in Toronto and a report has been commissioned to ascertain the best system to meet our new needs.

Effective January 2, 1980, fines for parking offences in Toronto could be paid through any

chartered bank in the Province. During the month of February, 1980, 68,000 parking tag payments were processed through the banks. In the first two months of this new program, payments increased 11 per cent over the first two months of the previous year and over our monthly average of payments. The initial success of this bank payment system has encouraged us to investigate further use of the facilities of the private sector to assist in service to the public related to court matters.

Training and Staff Development

The Provincial Court has completed its fourth year of participation in the Ministry's Management Development Program. This program has dealt with basic management skills, effective communications, organizational and managerial behaviour, performance problems, and, in 1980-81, will enter into the area of assertive management. This training is provided in co-operation with the Ministry's Personnel Management Branch and Sheridan College of Applied Arts and Technology. The program has been designed to insure continuity from one level to another and to provide a continuing Managerial Development Program for our managers and their staffs.

Court Administrators have completed their fourth year in this program, their Deputies/Assistants and key supervising staff their third year, and employees continued to enter into the program on a "career development" basis. New supervisory staff enter the program and are accelerated to achieve a "training level" with their peers as quickly as possible. The following numbers of individuals participated during the current year:

Management Workshop (Phase I);	37
Interpersonal Communications for Managers (Phase II);	42
Management for Results (Phase III);	66
Management of Human Resources (Phase IV);	58
Total	203

Additional Information applicable to both Criminal and Family Courts:

Fifty employees participated in courses offered by the Civil Service Commission in the areas of Management Development, Problem Solving and Decision Making, Communications Skills and Professional Skills. In addition, 34 staff members were furnished tuition assistance for courses in various Colleges and Universities.

Small Claims Courts

Ron McFarland,
Director

The Director of the Small Claims Courts provides administrative direction to the 125 court offices throughout the Province. The Director is responsible for the planning and preparation of reports on the needs, both Judicial and Administrative, of the courts and for filling staff vacancies. The Director advises court officials on procedures, the interpretation of amendments and the up-dating of the Manuals with regard to Administration, Forms, Records, Retention, and other related matters.

Activity

The volume of claims processed through the Small Claims Court during 1979 (152,613) was approximately the same as 1978 (152, 732). However, the records of the courts indicate a significant increase in money distributed by the courts — \$15,558,112 in 1979, compared to \$14,179,796 in 1978, an indication of the effectiveness of the system in resolving relatively minor monetary disputes between litigants.

The appointment during 1978-79 of Small Claims Court Referees in London, Toronto and Hamilton, as provided for in the amendments to The Small Claims Courts Act, 1977, was so successful in settling contentious matters where the sole problem was a question of collection, that additional Referees have been appointed in Elliot Lake, Haileybury, Ottawa, Sault Ste. Marie, Sudbury, Thunder Bay and Timmins.

There have been continuing efforts to maximize the use of available facilities to ensure all disputed matters are heard within 45 calendar days. During the year, a Statistical Report relating to matters

awaiting trial was introduced. The basic caseload information is required to ensure that our commitment to a scheduling delay of no longer than 45 days is realistic and attainable and to signal the need for corrective action where it is not being achieved.

New Initiatives

In June 1979, an Act was passed to create a Provincial Court (Civil Division) for the Municipality of Metropolitan Toronto as a Special Project Court to run for a three-year period, January 1, 1980, to January 1, 1983. One of the major features was to increase the monetary jurisdiction from \$1,000 to \$3,000. Since the Act was passed, a sub-committee, as provided for in the Legislation, has met on a regular basis to develop special rules to streamline the processes of filing and resolving relatively minor monetary disputes, hopefully, to develop a peoples' court. It is the intention to introduce a simple narrative of pleadings, alternatives to dispute resolutions and other structural settlement processes.

A number of courts throughout the Province will be designated as bilingual courts.

Small Claims Court Judges

Number of full-time Judges	9
Judicial District of Hamilton-Wentworth	1
Judicial District of Niagara North and South	1
Judicial District of Ottawa	1
Judicial District of York	6
	<u>9</u>

Courts and Office Accommodation Planning

W.M. Thomson,
Administrator

This branch provides general administration of all Court and office accommodation throughout the Province, as well as the liaison with the Ministry of Government Services in all alterations, new leases and capital projects required by the Courts.

Projects Completed

In Newmarket, a 14-courtroom Court House was completed on April 28, 1980. This Court House provides accommodation for Supreme Court,

The Ministry of the Attorney General

County Court, Provincial Courts (Family and Criminal Divisions) and Small Claims Court.

New facilities for the Provincial Court (Criminal Division), providing eight courtrooms for the Criminal Division and two courtrooms for the Small Claims Courts were completed in September, 1979, at College Park.

In Pembroke, two Courtrooms and support facilities were provided for Provincial Courts (Criminal Division and Family Division) in August, 1979.

The Oshawa Provincial Court (Family Division) was relocated in May, 1979, and provided with a two-courtroom facility. New facilities were provided for the Provincial Courts in Guelph when one Family courtroom and two Criminal Division courtrooms opened in July, 1979.

Also in July of 1979, a three-courtroom facility was opened in Burlington to accommodate the Provincial Courts (Criminal and Family Divisions) and the Small Claims Court.

A new computer room and related facilities were provided for the Public Trustee in November, and in December the offices of the Sheriff and Registrar in Kitchener were expanded.

Additional space was provided for the Head Office at 18 King Street East, Toronto.

The 3rd Small Claims Court was relocated in Richmond Hill and new facilities were provided for storage of goods seized by the Sheriff's office.

Arrangements were made to relocate the Provincial Courts (Family and Criminal Divisions) in more adequate quarters in the Metis Hall, Moosonee.

Additional space was provided for the Official Guardian at 180 Dundas Street West.

Renovations were completed on the first floor of the Peel County Court House in the area vacated by the Crown Attorney. Emergency lighting was installed in the Walkerton County Court House.

Acoustical problems in Courtrooms 31, 33 and 38 at Old City Hall, Toronto, were rectified.

Alterations to County Court House, Guelph, in the space vacated by the relocation of the Provincial Court (Family Division) were completed.

The Lindsay Provincial Courts (Family and Criminal Divisions) were relocated to more adequate facilities in the Kawartha Lakes Training School.

Twenty-three other small alteration projects, ranging from alterations to witness stands to partition relocations, were undertaken and completed.

Under Construction

Construction is underway in the Sudbury Court House to provide an additional Provincial Court (Criminal Division) courtroom, Court reporters office, J.P.'s office and Judge's office in the basement of the Court House.

In Milton, additional courtroom space is being provided in the area previously occupied by the Ministry of Agriculture and Food, and in Kitchener the first Small Claims Court is being re-organized to provide more efficient space for the County Court.

Two projects are underway at the York County Court House. One will relocate the Sheriff and Jurors offices and provide additional Judges offices and the other will provide a much needed expansion space for the Crown Attorney's Office on the ground floor.

A relocation of the computer room from the 15th to the 3rd floor at 18 King Street East is near completion.

More adequate facilities are being provided for the J.P.'s and renovations are being undertaken to Courtrooms A and K at Old City Hall.

In Brant County Court House, the 2nd-floor Council Chambers are being redesigned to provide a Jury courtroom, a Jury retiring room and washroom facilities. Renovations are being undertaken on the ground floor to provide adequate Judges Chambers and interview rooms.

A two-courtroom facility with holding area, Sheriff's Office, Judges Office, interview rooms and reporters office is being completed for the District Court in Timmins. The Provincial Court (Family Division) will relocate to a one-courtroom facility currently under construction at 3 Cross Street.

One additional courtroom and support facilities are being provided for the Provincial Court (Family Division) at 160 Silverhill Dr., Etobicoke.

A new two-courtroom facility is being provided for the Provincial Court (Family Division) in Sault Ste. Marie.

In Planning/Lease Search/Negotiation

Contract documents are being prepared for new facilities in Elliot Lake for the Provincial Courts (Family and Criminal Division) and Small Claims Court.

Lease negotiations are underway in Picton for an enlarged court facility at 332 Main Street for Provincial Courts (Family and Criminal Divisions).

Negotiations and working drawings are underway to provide adequate holding cells and interview areas for the Provincial Courts (Family and Criminal Divisions) in Napanee.

Tenders have been called for the North Bay District Court to provide additional Jury facilities, washrooms, witness room and barrister change rooms.

Tenders have also been called for renovations to the 2nd floor of the District Court House, Sudbury, to provide an additional jury courtroom, witness waiting area and interview rooms.

Tenders have been called for renovations to the Provincial Court (Criminal Division) at 1 Nicholas Street, Ottawa, which will consolidate the Ottawa Criminal Division Courts at this location. Tenders have been called to provide an additional jury deliberation room, new elevator and proper security in the Hamilton County Court.

Working drawings are in progress to provide two additional jury courtrooms and jury deliberation rooms, as well as converting an existing courtroom from non-jury to jury capabilities at York County Court House.

Design drawings are progressing for a Court House in St. Catharines to accommodate Supreme, County, Provincial Courts (Family and Criminal Division) and Small Claims Courts.

Initial planning is underway for a Court House in Ottawa to house Supreme, County, Provincial Courts (Family and Criminal Divisions) and Small Claims Courts, and for a Justice Complex in Metro Toronto.

Inquiry Management and Appointments Branch

P.W. Clendinneng,
Director

The Inquiry Management and Appointments Branch has two principal responsibilities:

1. co-ordinating and directing the logistical support of royal commissions, judicial inquiries and task forces funded through the Ministry of the Attorney General,

2. administration of the appointments program in relation to justices of the peace, notaries public and commissioners for taking affidavits.

In addition, the Branch administers The Public Institutions Inspection Act and The Blind Persons' Rights Act, and co-ordinates the drafting and processing of the Ministry's recommendations to council and regulations.

Early in 1980, justice of the peace services were reviewed concurrent with the introduction of The Provincial Offences Act. Additional appointments were made, and revised fee structures instituted.

The Professional Organizations Committee reviewed the provisions of The Notaries Act relating to the appointment of notaries and administration of this Act. The Committee's Report on notarial appointments was positive in nature and made no recommendations for change. Forms relating to the appointment of Notaries Public and Commissioners for Taking Affidavits were revised and updated, and revised fee structures instituted.

Revised guidelines for Royal Commissions and Inquiries were introduced in February, 1980, to further the objective of ensuring the efficient expenditure of public money. The appointment of a Chief Administrative Officer has increased the liaison between the Ministry and Royal Commissions, and the monitoring of the administrative and financial activities has been intensified.

The benefits to be derived from the employment of a Chief Administrative Officer for Royal Commissions will continue to substantially increase the liaison with Commissions and Inquiries and will continue to facilitate the development of a number of initiatives for improved financial/administrative management in relation to same. The coming year will also see the continuing review of the policies and procedures governing appointments.

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Provincial Courts (Criminal Division)

Chief Judge F.C. Hayes,
Associate Chief Judge H.A. Rice

Court Sittings

During the past fiscal year, the Provincial Courts (Criminal Division) continued to hold sittings on a regular basis at approximately 140 locations throughout Ontario, with multiple courtroom establishments at approximately 25 locations. There was a minor fluctuation in activity in the Provincial Courts (Criminal Division) during this fiscal year, as well as a continuing change in the nature of the caseload, such as a greater number of substantial prosecutions arising from complex commercial transactions, more charges where a number of individuals are jointly charged with criminal and/or narcotic offences and an increasing number of prosecutions under miscellaneous federal and provincial statutes.

There have been continuing efforts throughout the Province to maximize the use of available judicial personnel and facilities. In this regard, a number of changes in court scheduling procedures have been made and, in addition, substantial emphasis is continuing to be placed on an early review of the nature of the case by both Crown and Defence Counsel. The various procedures in this regard are aimed at narrowing the issues before the court so as to more accurately estimate the amount of court time required for the trial or preliminary hearing.

Continuing efforts are being made by the Chief Judge's office to obtain a degree of uniformity in the time between the laying of the Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the Province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e., cases occupying one day or

more) increased from 815 in 1978-79 to 831 in 1979-80. Special matters being prosecuted by representatives of the federal Department of Justice accounted for 154 courtroom days, and special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 643 courtroom days in 1979-80. The movement of Judges from Metropolitan Toronto to other areas for special relief increased by some 53.8 per cent from 245 days in 1978-79 to 377 days in 1979-80. Included in the 1979-80 figure are additional sittings of the court on a regular basis in Brampton and Dundas, and the scheduling of these additional sittings commenced in the latter part of 1979.

The demand continued for the court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings. An increase over the past few years in the level of law enforcement has led to a greater number of charges and we have been unable to respond to all the demands for additional sittings in various areas of Northwestern Ontario.

Provincial Offences Act

The Provincial Offences Act and the companion amendments to the Provincial Courts Act were proclaimed as of March 31, 1980.

This legislation resulted in the establishment of the Provincial Offences Court. In an effort to improve the scheduling, the sittings of the Provincial Offences Court will be established on a four-tier system throughout the Province with the sittings being at 9 a.m., 10:30 a.m., 1:30 p.m. and 3 p.m. This results in a more intensive use of the physical facilities, and in the citizen who is charged and all necessary witnesses being required to attend at the court premises for not more than 1½ hours.

The provisions of the Provincial Offences Act provide to the defendant an opportunity of pleading guilty with an explanation in a plea of guilty courtroom. The sittings of the Provincial Offences Court for the purpose of accepting pleas of guilty with an explanation have been established at the various court locations throughout the Province on such a basis as to afford the defendant an opportunity to plead guilty with an explanation within a 15-day period.

The provisions of the Act requiring the defendant, if he wishes to plead not guilty, to indicate his

decision within 15 days will, no doubt, result in improved scheduling procedures and possibly a more efficient use of personnel and physical resources.

Court Visitations

The Chief Judge continued with his visits to a number of areas of the Province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also held their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory

offence caseload and various alterations have been made to case-scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Bilingual Court Services

On the proclamation of Bill C-42, arrangements have been completed to provide a trial before a French-speaking or a bilingual Judge when so requested throughout the Province of Ontario. This is an expansion of the bilingual service which was being provided in certain areas of the Province where trials were proceeding before a French-speaking or bilingual Judge on a consent basis.

Judicial Appointments

	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980
Provincial Judges in Ontario						
Number of Full-time Judges, including Chief Judge, as of December 31	117	117	128	129	137	141
Number of Judges Retired or Deceased or on L.T.I.P.	6	6	5	8	5	9
Number of Judges Appointed	5	7	15	8	12	12
Number of Part-time Judges	2	2	2	2	1	1
Number of Judges on Extension	6	6	4	6	5	10

As of March, 1980, eleven (11) of the above Judges were also presiding in the Family Division.

	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980
Provincial Judges in Metropolitan Toronto						
Number of Full-time Judges, including Chief Judge, as of December 31	29	28	36	34	40	48
Number of Judges Retired, Deceased or Resigned	0	1	0	2	1	2
Number of Judges Appointed	1	1	8	0	7	10
Number of Judges on Extension	1	2	1	2	2	3

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R.G. Pearse in each instance, and to show one resignation — Judge C.W. Morrison in 1975.

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Adjournments in the Provincial Courts (Criminal Division)

The practice direction by the Honourable W.G.C. Howland, Chief Justice of Ontario, with respect to adjournments in the Provincial Courts has been of very substantial assistance in facilitating the setting of trial dates and has resulted in fewer trials not proceeding on the appointed day.

Judicial Education

The office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the Judges. The Law Clerk assigned to the staff of this office continued to prepare appropriate annotations for recently reported judgments and to carry out research in areas of criminal law relevant to the Provincial Courts (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

The Judges Education Program was held at the University of Western Ontario again this year. This program permits a Judge, once every three years,

to live for one week in a university setting and to participate in a program consisting of lectures, discussions, and videotapes.

The Provincial Judges Association (Criminal Division) continued with its education program composed of regional education and sentencing seminars. At these seminars, emphasis was placed upon the introduction of the Provincial Offences Act and the companion amendments to the Provincial Courts Act.

Justices of the Peace Education Program

During the months of January, February and March, three-day regional seminars were held with respect to the introduction of the Provincial Offences Act.

These seminars were attended basically by "A" Direction Justices of the Peace, and there were five seminars in all — two in Toronto and one each in Ottawa, Sault Ste. Marie, and London. At these seminars, the Justices of the Peace were provided with an instructional manual and an annotated copy of the Provincial Offences Act.

Statistics

The statistical reports indicate the following changes within the system:

	1978-79	1979-80	Percentage Increase/ (Decrease)
New Charges — All Statutes			
Metropolitan Toronto	2,124,788	2,019,131	(4.97%)
Remainder of Province	1,795,462	1,895,042	5.54%
Total	3,920,250	3,914,173	(.15%)
Dispositions — All Statutes			
Metropolitan Toronto	1,882,406	1,919,059	1.94%
Remainder of Province	1,814,264	1,912,912	5.43%
Total	3,696,670	3,831,971	3.66%
Dispositions — C.C.C.			
Metropolitan Toronto	100,404	113,249	12.79%
Remainder of Province	218,359	230,871	5.73%
Total	318,763	344,120	7.95%
Dispositions — Minor Traffic			
Metropolitan Toronto	1,689,533	1,766,448	4.55%

Also, Judges across the Province were requested to meet with the "B", "C", and "D" Direction Justices of the Peace in their area in order to explain to them the provisions of the Act, and these Justices of the Peace were also provided with educational material.

General Comments

Substantial emphasis is and will continue to be placed on encouraging pre-trial disclosure in criminal matters.

In addition to these efforts, we are continuing to have a Provincial Judge, or a limited group of Provincial Judges, assigned to a particular section of the caseload on a continuing basis until that portion of the caseload has been finalized. This type of assignment and scheduling arrangement has been in operation at the additional court facilities at College Park in Toronto since September of 1979, and it would appear that it is assisting in achieving an earlier disposition date for the matters coming before the court.

New accommodation for the courts has been provided in Guelph, Burlington, College Park and Lindsay, and this has facilitated the operation of the courts in those areas.

Provincial Courts (Family Division)

Chief Judge H.T.G. Andrews,
Associate Chief Judge Robert J.K. Walmsley

Jurisdiction

The jurisdiction of the Provincial Courts (Family Division) has been expanded during the fiscal year 1979-1980. At present, the Courts' authority includes the following matters:

1. Prosecutions under the federal Juvenile Delinquents Act in respect of the criminal conduct of infant offenders (juvenile delinquency) and criminal conduct against infant victims (contributing to delinquency).
2. Child protection under The Child Welfare Act of 1978. This Act came into force on June 15, 1979, and while it was substantially similar to the previous protection legislation, there have been some innovations (the effect of which is not yet entirely apparent), such as legal representation for children and stricter obligations upon the

public and professionals to report suspected instances of neglect or abuse.

3. Adoption under The Child Welfare Act of 1978. This is an area of family law jurisdiction that has been returned to the Provincial Courts (Family Division) after an absence of more than 25 years. Now the jurisdiction of the Provincial Courts (Family Division) is exclusive. Literal interpretation of certain provisions by the judiciary prompted a moderate amendment to the Act in December 1979, largely to get around a problem in the eyes of Children's Aid Societies of locating, serving with legal process and securing adoption consents from fathers of children born out of wedlock.

4. Inter-spousal rights and obligations under The Family Law Reform Act of 1978 and The Reciprocal Enforcement of Maintenance Orders Act. The fiscal year 1979-80 has been the second full year in which the reform legislation has been in effect, and a considerable body of reported jurisprudence is now available for the guidance of litigants, lawyers and Judges. It is now clear that the transition from the old legal regime to the new has been effected very smoothly.

5. Parent-child rights and obligations under The Family Law Reform Act of 1978, The Children's Law Reform Act of 1977 and The Reciprocal Enforcement of Maintenance Orders Act. Matters dealing with custody, access, findings of paternity, child support and freedom from molestation are also in their second year under the reformed legal regime. Again, no significant concerns over the transitional period have materialised.

Provincial Judges have also had the authority to try many offences under the federal Criminal Code and under provincial regulatory laws. Many intra-familial crimes (such as domestic assaults and incest) are heard by Judges who normally preside over a Provincial Court (Family Division) but who, because of the criminal or regulatory nature of the proceedings, must reconstitute their Court as the local Provincial Court (Criminal Division).

New rules of practice and procedure came into effect on June 15, 1979, applicable to all civil proceedings before the Provincial Courts (Family Division), replacing the rules that were previously restricted only to The Family Law Reform Act.

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Judicial Complement

As of March 31, 1980, judicial complement for the Family Division comprised:

Judges serving the Family Division	
— full time	50
— part time	5
Judges serving both Criminal and Family Divisions	11
Judges on leave	2
Total complement	<u>68</u>

Two fewer than the previous year at this date.

Complement for the Unified Family Court was increased by one, bringing their total to 4.

Education

As in the former year, heavy emphasis continued to be placed upon training and development. There was an increased demand imposed upon the judiciary and court staff to respond to numerous requests for their assistance in providing information and instruction to individuals and groups with respect to current legislation.

Programs for the Judiciary were held in:

Ottawa — September 13-15, 1979
Toronto — April 2-5, 1979
Toronto — October 21-26, 1979
Toronto — November 11-16, 1979

The Canadian Association of Provincial Court Judges sponsored a program for newly appointed Judges in Ottawa, from November 2 to 4, 1979. The Chief Judge and his law clerk, R.N. Komar, acted as instructors. Family Division Judges, the Chief Judges and members of their staff have lectured extensively at universities and other educational institutions as well as social service agencies and service clubs.

Student training continued through programs such as the Youth Secretariat's Experience '79. The Chief Judge's office disbursed 1,610 applications to the 35 participating courts. Fifty-seven students were from faculties of law and 21 from other disciplines.

A new resource manual on the Child Welfare Act (June, 1979) was written for Judges, Administrators, and senior staff members of the court.

The Chief Judge's Office played host to visitors from Australia, England, Saskatchewan and

Manitoba wishing to examine Ontario's Family Court system.

Service Delivery

The 54 court offices continued to provide administrative services to the 112 locations at which courts are held. Court appointed Justices of the Peace increased by 11 and the number of court staff authorized to perform marriages rose by five.

New accommodation was provided for Courts at Pembroke, Oshawa and Guelph.

Concerns arose this year regarding the sharp increase in requests for the setting aside of one-, two- and three-day periods for 'special trials' on Family Law Reform Act custody matters and Child Welfare Act wardship hearings. A study on the extent of this problem was undertaken by the Chief Judge's office and a report produced in April. Altogether, 1,105 days had been consumed over a six-month period.

The Family Court's seven Senior Judges continued to work with their regional courts in maintaining optimum service delivery. They met with the Chief Judges on four occasions.

Ongoing aids such as the Maintenance Assessment Form, the Directory of the Provincial Court (Family Division), and Statute Binder Inserts for staff and other professionals continued to be produced.

Systems for a continual monitoring of time lapses between the application/information stage and first appearance; and between first appearance and the adjournment stage were developed. This has enabled the Chief Judges to maintain an overview of scheduling throughout the Province.

The following Family Courts are all providing bilingual services:

Ottawa	Sturgeon Falls
Sudbury	North Bay
Hornepayne	Mattawa
Elliot Lake	Blind River
Bruce Mines	
Cochrane	
Hearst	
Kapuskasing	
Smooth Rock Falls	
L'Orignal	
Rockland	
Cornwall	

PROGRAMS AND ADMINISTRATION DIVISION

G.H. Carter,
General Manager

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1979/80 emphasis was again placed on increasing the efficiency of available resources in compliance with the Ontario Government's continued constraint measures.

Women's Advisory Office

V. Drawbell,
Program Assistant

During the fiscal year 1979-80 the program was maintained by Mrs. V. Drawbell, Program Assistant. Mrs. M.C. McLean, Women's Advisor, was absent on maternity leave, and subsequently transferred to the Planning and Evaluation Branch.

The aim of the Affirmative Action Program in the Ontario Public Service is 'to raise and diversify the occupational distribution of women'.

During the fiscal year 1979-80, the staff of the Women's Advisory Office directed their efforts towards implementing this goal through the organization of seminars, awareness sessions, career counselling, and the dissemination of related information through the network of approximately 130 Affirmative Action Representatives in the ministry's regional and Metro offices. Continuing support was received from senior management who assisted in the planning of the program.

Notwithstanding the effects of financial constraints, the commitments outlined in the Management by Results plan for the Women's Advisory Office were largely met. It is the continued wish of the Attorney General and the Deputy Attorney General that the Affirmative Action Program meets its aims to the mutual benefit of female employees and the Ministry.

Finance and Services Branch

H.A. Gibbs,
Director

During the fiscal year 1979/80, the Branch, in its role of providing financial and administrative support to the Ministry, was able to introduce several initiatives representing significant cost and administrative improvements.

In the Forms and Records field, the substantial completion of the Ministry's forms standardization project made it possible to undertake single, annual, consolidated printings of many forms hitherto separately ordered by individual offices as need arose. Significant savings in printing costs were thereby realised in the Courts Administration program of the Ministry, plus reductions in the administrative effort required to order and stock supplies of forms.

A major undertaking was a Ministry-wide evaluation of photocopying needs, a growing cost item in the Ministry's annual budget. As a result of the evaluation, suppliers were invited to tender, and a combination of machines was selected which would most economically and effectively meet these needs. These machines are now in place, and their utilization is being monitored to determine how well they are meeting Ministry requirements.

The project to replace the present in-house mini-computer was well advanced at year end, and will be completed during the summer of 1980. The old machine has been in use for five years but is no longer capable of meeting the needs of the Ministry and the central agencies; the replacement machine represents more resources at less overall cost, and will substantially improve the Ministry's data processing capability.

Studies were completed which favoured centralisation of a major segment of Ministry banking operations. Details need to be worked out with Treasury officials in the light of services available from the banking community. However, the will exists to bring about an early and a substantial degree of centralisation in banking arrangements in order to effect savings in money costs.

Representatives from the Branch formed part of the Ministry implementation team for project "Access", an important initiative of the

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Government of Ontario. This involved participation in training seminars for Ministry staff throughout the Province, and a liaison role with suppliers and central agency staffs. Project "Access" is in operation throughout all offices of the Ministry and this involvement is now complete.

Audit Services Branch

J. Solymos,
Director

Mr. J. Solymos was appointed director effective January 2, 1980, filling the vacancy created by the retirement of Mr. G.L. Wilcox.

Audits

Special assignments and investigations continue to place a heavy demand on the manpower of the Branch.

The Branch continued to provide audit and accounting assistance to significant projects in addition to regular audit requirements of Court and Judicial Offices, Branches, Boards and Commissions, although the schedule was curtailed due to complement vacancies for four auditors. Greater emphasis was placed on operational auditing which will continue to be a major part of the Branch's program.

Defaulted Fines/Licence Suspension System

Suspension and reinstatement orders processed during the year ended March 31, 1980, amounted to 203,888, an increase of 15.8 per cent over previous year's volume of 176,092. The value of outstanding fines collected through the licence suspension scheme has increased during the year ended March 31, 1980, by 21.2 per cent to \$3,317,624 from \$2,737,781 over the previous year. The higher workload was absorbed by this operation without staff increase as a result of continuing efforts to increase efficiency.

Personnel Management Branch

O.M. Mitchell,
Director

The Branch continued its responsibility to assist Managers in program operation, particularly through the best utilization of human resources.

The Ministry still felt the effects of fiscal and staffing restraints, and special initiatives from the Civil Service Commission regarding policies relating to employment of surplus staff, the handicapped and credentialism. The Branch disseminated information on these controls and guidelines and increased its assistance and advice to Managers on the staffing function and the best use of resources available. Provincially sponsored work programs such as O.C.A.P., Experience '79, and Work Experience weeks were supported by the Ministry and benefit was derived from them.

In organization and position administration, review and updating of positions was ongoing and work concentrated on the identifying and conversion of management positions to the Management Compensation Plan. Information on positions not meeting criteria for exclusion from the bargaining unit was submitted to the Civil Service Commission for their further action on change of position status to bargaining unit. Ministry re-organization and legislative change increased regular activity and included the extension of the Provincial Court (Criminal Division) in College Park, a re-organization of Supreme Court offices in Toronto and the institution of the Child Representation Program in the office of the Official Guardian.

The Branch continued its responsibility to staff development. The Ministry's Management Development Program, presented in co-operation with Sheridan College, provides the opportunity for progressive management training. Civil Service Commission sponsored courses and educational assistance also provided assistance for career development and enrichment. The Branch co-ordinated training seminars to promote the Access Project. Pre-Retirement Programs were continued during 1979/80 on a shared cost basis with other Ministries in the Justice Policy Field. Eleven Ministry employees attended seminars held in Toronto. Spouses were also invited, and evaluations of the program received indicate extremely favourable reaction. The program will be continued into the next fiscal year.

Changes in Collective Agreements led to interpretative questions and Branch staff assisted Managers resolve complaints wherever possible with effective staff relations guidance.

Planning and Evaluation Branch

D. Mueller,
Director

The continuing responsibility of the Planning and Evaluation Branch is to provide advice and assistance to Ministry program managers in the development and implementation of performance measurement systems. Through improved planning and management process, optimum resources utilization and effective service delivery is ensured.

Management By Results

The most significant achievement in 1979-80 was development and/or improvement of the results-oriented management system in most key operations of the Ministry. This system, as before, combines two separate data flows, one on workload and the other on resource levels. Its twofold purpose is to provide for the assessment of actual operating results in relation to current budgets and to facilitate the development and substantiation of future budgets in terms of resources required for planned operational levels. Coverage by this reporting system represented about 91 per cent of total Ministry's resources.

In addition to regular planning activities, plans of both single and multi-year terms were developed to outline future financial and service level implications of continuing and new operations. The Branch continues to maintain a close link with the Ontario Legal Aid Plan, Metropolitan Toronto Forensic Service, and the Ontario Federation of Indian Friendship Centres in terms of budget planning and analysis of operating statistics. Other work related to the administration of federal-provincial cost-sharing agreements affecting Legal Aid, Native Peoples, Unified Family Court and Criminal Injuries Compensation.

Information and Computer Systems Branch

D.H.S. Thornton,
Director

The Branch provides services to the Ministry in two separate areas of responsibility. One of the Branch's responsibilities is the collection, dissemination and analysis of operational, statistical and management information. At the present time the majority of the information

collected relates to the operations of the courts at all levels and to the Crown Attorney's offices.

Monthly, quarterly and annual statistical reports are prepared on a regular basis for senior officials of the Ministry, Division and Branch Heads and the Judiciary. In addition, a wide variety of special reports are prepared, upon request.

The Branch is continuing its efforts to improve its data collection and dissemination services. To this end, a new statistical reporting system for the Provincial Court (Family Division) was implemented, along with a new Provincial Offences Act reporting system. An automated management information retrieval system is now being developed.

This Branch also provides support to the various Branches and Divisions of the Ministry in the Development and improvement of manual and computerized systems and in the field of management consulting.

The Branch undertook a wide variety of consulting and development projects in the last year. Of particular note was the successful mini-computer system implemented in the Provincial Court (Criminal Division) in Oshawa. Plans are now under way to expand this system to seven additional sites across Ontario. Another major undertaking was the revision of manual and computer systems to facilitate the implementation of the Provincial Offences Act.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Duties

This office is the depositary for all money, mortgages and securities which are paid into, or lodged with, the Supreme Court of Ontario. These monies, mortgages and securities are received, and disbursed or released pursuant to judgments and orders of the Supreme Court of Ontario, and in accordance with the Judicature Act and other relevant statutes.

Assets

Assets under management at the end of the fiscal year 1980 totaled \$153 million from \$157 million the previous year. On October 1, 1979,

The Ministry of the Attorney General

the interest rate paid on infants' funds was raised to 11 per cent per annum from nine per cent and the rate paid on other funds being held pending court cases was raised to seven per cent per annum from six per cent. Both rates are compounded semi-annually and calculated on a minimum monthly basis.

Revenues and Investments

The interest revenue on the portfolio increased to \$13.9 million from \$13.1 million in the fiscal year 1978-79. The monies paid into the Supreme Court for suits and matters in the current fiscal year totalled \$64.2 million (1978/9 – \$64.2 million), while disbursements for the same period amounted to \$66.1 million (1978/9 – \$58.9 million).

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, Q.C., LL.B., LL.M.,
S.J.D., LL.D. (Lond.) 1980.

Vice Chairman:

Honourable George A. Gale, C.C., Q.C., LL.D.

Members:

Honourable Richard A. Bell, P.C., Q.C.
Honourable James C. McRuer, O.C., LL.D., D.C.L.
William R. Poole, Q.C.
Barry A. Percival, Q.C.

Function

In 1964, pursuant to The Ontario Law Reform Commission Act, S.O. 1964, c. 78, the Ontario Law Reform Commission was established as an independent Commission. The function of the Commission is to inquire into and consider any matter relating to:

1. reform of the law having regard to the statute law, the common law and judicial decisions;
2. the administration of justice;
3. judicial and quasi-judicial procedures under any Act; or
4. any subject referred to it by the Attorney General.

In the course of its study of a broad range of topics within the legislative competence of the Province of Ontario, the Commission has published 54 Reports and 13 Annual Reports, the latter briefly describing the Commission's activities during each fiscal year. The 54 Reports contain recommendations for law reform in a substantial number of areas; major contributions have been made in respect of such matters as family law, the age of majority, landlord and tenant law, limitation periods, powers of attorney, occupiers' liability, sale of goods and products liability. More than 17 Commission Reports have formed the basis for such statutes as The Family Law Reform Act, S.O. 1978, c. 2, The Succession Law Reform Act, S.O. 1977, c. 40, The Children's Law Reform Act, S.O. 1977, c. 41, The Marriage Act, S.O. 1977, c. 42, The Age of Majority and Accountability Act, S.O. 1971, c. 98, The Landlord and Tenant Amendment Act, S.O. 1968-69, c. 58, The Landlord and Tenant Amendment Act, S.O. 1972, c. 123, and The

Powers of Attorney Act, S.O. 1979, c. 107. In addition, the new Occupiers' Liability Act, S.O. 1980, c. 14, when proclaimed, will substantially reflect the Draft Act proposed by the Commission in its 1972 Report on Occupiers' Liability.

Activities During 1979-80

In 1979, the Commission published its Report on Products Liability. The need to review this critical area of the law became clear in the course of the Commission's detailed examination of the law concerning the sale of goods. The Report focuses on persons who supply defective products and is concerned essentially with the nature and scope of the civil liability of such persons to a purchaser, ultimate user or other person for injuries caused by these products. The Report examines recent developments in other Canadian jurisdictions, the United States, England and Western Europe. In addition to its 33 recommendations for reform, it provides a Draft Bill in respect of the liability for the supply of defective products. The Report considers several possible alternatives for reform and examines the economic and insurance aspects of strict liability, the scope of strict liability and conflict of laws issues.

In addition to completing its Report on Products Liability, the Commission has more than 10 projects on its present program. One of the most complicated projects concerns an investigation of the desirability of expanding and developing the law of class actions beyond the confines of Rule 75 of the Supreme Court of Ontario Rules of Practice, the existing procedural rule that governs the initiation of class actions in Ontario. Work on the Class Actions Project has continued during the past year; a considerable portion of the research has been completed and many decisions have been taken by the Commission. Further, a substantial amount of work has been completed on the law of trusts and the enforcement of judgment debts and related matters. It is anticipated that the Commission will report on several aspects of these areas of the law in the 1980-81 fiscal year. Work also continues on the following projects: the Administration of Estates of Deceased Persons, the Law of Standing, the Law of Mortgages, Basic Principles of Land Law and Powers of Entry. Two new projects were added to the Commission program during the past year: namely, the Law of Contract Amendment

Boards and Commissions

Project and Contribution Among Wrongdoers Project. Another project, concerning Declarations of Marital Status, has been deferred as a result of demands that have been made upon Commission resources; however, work will resume on the project as soon as possible. Finally, the Commission has recently received a reference from the Attorney General concerning witnesses before legislative committees.

In its research and deliberations, the Commission has been ably assisted by many members of the bar and of the public. In addition, the Commission has profited from liaison with other law reform agencies and with the Uniform Law Conference of Canada.

Ontario Municipal Board

The offices of the Board are located at 180 Dundas Street West, Toronto.

All Members of the Board are appointed on a full-time basis* and the following is a list of the Members during 1979:

Chairman:

H.E. Stewart

Chairman Emeritus:

W. Shub, Q.C.

Vice-Chairmen:

A.H. Arrell, Q.C.

A.L. McCrae

W.T. Shriver

W.H.J. Thompson, Q.C.

B.E. Smith

D.S. Colbourne

D.D. Diplock, Q.C.

Members:

S.S. Speigel

H.H. Lancaster

P.M. Brooks

A.B. Ball

C.G. Ebers, Q.C.

H.W. Kelly, Q.C.

J.A. Wheler

E.A. Seaborn

A.J.L. Chapman, Q.C.

W.E. Dyer, Q.C.

C.G. Charron, Q.C.

J. Wadds

K.D. Bindhardt

W.L. Blair

D.H. McRobb

P.G. Wilkes

J.E. Hendy

V.M. Singer, Q.C.

M.D. Henderson

F.G. Blake*

(part-time, former Vice-Chairman)

Chief Administrative Officer and Secretary to the Board:

K.C. Andrews

Establishment and Jurisdiction

The Board was created in 1932 under The Ontario Municipal Board Act which repealed but incorporated many of the provisions of The Railway and Municipal Board Act (passed in 1906), The Municipal Schools Accounts Audit Act and The Bureau of Municipal Affairs Act. The establishment of the Board and its authority is now derived from The Ontario Municipal Board Act, R.S.O. 1970, Chapter 323, as amended. Much of its jurisdiction and authority flows from The Municipal Act, The Planning Act, The Highway Improvement Act, The Assessment Act, as well as numerous other statutes.

Functions

The Board acts as an independent administrative tribunal and is not an agency or commission. Its function and duties are prescribed by these Acts. When the Board holds a hearing, it is, of course, governed by any applicable statute; but it is also subject to the rules of natural justice. The administration of justice could be said to be divided between the judicial arm of government (the Courts) and the executive arm, of which latter this Board is a branch. The Courts operate under strict rules and interpret and follow statutes and precedent. Administrative boards, such as this Board, administer what is sometimes called discretionary justice, having a minimum of rules and a wide spectrum of discretion.

The extent and nature of the jurisdiction of the Board could be described as responsibility for the sound growth and development of municipalities within the framework of the statutes and protection of private interests as much as possible in the following areas:

1. Planning

Approval of restricted area by-laws, references of Official Plans and plans of subdivision, and

appeals from land division committees and committees of adjustment.

2. Municipal Capital Expenditures

Financial supervisory role by approval of capital undertakings and the manner of recovery.

3. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

4. Assessment Appeals

5. Miscellaneous Applications

Applications and Appeals to the Board under The Planning Act

The following table shows the number and types received in 1979 and the previous four years:

	1975	1976	1977	1978	1979
Applications for approval of restricted area by-laws	2438	3202	3417	3569	3995
Applications for approval of plans of redevelopment	0	0	1	24	18
Applications for approval of proposed plans of subdivision and condominium	20	47	62	34	71
Applications for approval of official plan amendments	97	157	229	213	180
Appeals for amendment of restricted area by-laws	98	120	109	112	146
Appeals from Committees of Adjustment and Land Division Committees	1780	2205	1793	1833	1704
	4433	5731	5611	5785	6114

Approval of Capital Undertakings and the Imposition of Rates and Levies to Recover the Cost thereof

In 1979 the Board prepared a revised edition of a booklet on "The Role of the Ontario Municipal Board with respect to undertakings involving long term commitments by Ontario Municipalities and their Local Boards". This booklet was mailed to all Commissioners of Finance and the Treasurers of all regions, counties, and local municipalities in the Province to provide a better understanding of the Board's role and for assistance in providing the financial information required by the Board in this connection.

In order to avoid delay and to expedite the processing of applications for approval of capital expenditures, the Board establishes early in each year:

1. a capital expenditure quota for all regional municipalities and cities and the larger towns and townships that normally submit applications frequently in one year, and

2. a permissible debt limit for all other municipalities.

The following table shows the number of applications received by the Board in 1979 and the previous four years.

Year	Applications
1975	3218
1976	3056
1977	2608
1978	2536
1979	2364

Assessment Appeals and Miscellaneous Applications

In addition to the number of capital expenditure applications and applications under The Planning Act, the Board received the following appeals and applications in 1979 under the various statutes specified:

The Assessment Act	259
The Conservation Authorities Act	38
The Local Improvement Act	8
The Municipal Act	68
The Municipal Affairs Act	10
The Ontario Municipal Board Act	2
The Pits and Quarries Control Act	8
The Public Transportation and Highway Improvement Act	7
The Education Act	8
Special Legislation (Municipalities)	32
Other	19
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Boards and Commissions

Summary of Applications and Appeals

The following is a summary of applications and appeals to the Board for the years 1975 to 1979:

	1975	1976	1977	1978	1979
Restricted Area By-laws, Official Plan Amendments, etc.	2635	3526	3818	3952	4410
Committee of Adjustment and Land Division Appeals	1780	2205	1793	1833	1704
Capital Expenditure Applications	3218	3056	2608	2536	2364
Assessment Appeals and Miscellaneous	294	356	367	359	459
	7927	9143	8586	8680	8937

Board Hearings

Years	No. of Hearings	No. of applications dealt with at hearings
1974	1724	2142
1975	2410	2941
1976	1877	2325
1977	1996	2492
1978	2351	2959
1979	2366	3286

Applications which do not require hearing are subject to review, consideration and decision by the Board. In 1979, the Board disposed of 10,196 matters which involved the preparation and issue of 8,658 Board Orders.

Board Decisions

Decisions of the Board of leading cases may be found in the Ontario Municipal Board Reports (O.M.B.R.) published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of decisions are also distributed by the Board to appropriate Government agencies and to various universities and law libraries for reference purposes. Copies of individual decisions may be obtained on request from the offices of the Board.

Appeals from Board Decisions

1. Divisional Court on matters of law and jurisdiction.
2. Petition to Lieutenant Governor in Council.
3. Application to Board for rehearing.

Annual Report

The 74th Annual Report of the Board for the year 1979 is available from the Government of Ontario Bookstore.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G.C. Hewson

Vice Chairman part-time:

S.R.R. McNeil

Members part-time: 80

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69 and continues under The Assessment Review Court Act, 1972.

This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine

1. Complaints against real property assessment for the basis of municipal taxation in Ontario at the lowest cost to the taxpayer.
2. Appeals from the refusal of municipal clerks to amend the list showing school support for school board taxation.
3. The apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block.
4. When authorized by municipal by-law (or by way of an appeal from the decision of a municipal council) applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

The Regional Registrars of the Court are responsible for the processing and scheduling for hearing of complaints against assessments and the certification of the last revised assessment roll of each municipality in Ontario. The Regional Registrar also schedules all appeals from the

decisions of the Court to the County or District Court Judges within the Province under Section 55 of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1979, to March 31, 1980.

1. Court Sitzings

During the year the Court sat for 2,238 days in various municipalities throughout the Province and heard and determined 118,744 complaints, appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Sections 44 and 52, processed and scheduled appeals to the County or District Judge under Section 55 of The Assessment Act, and applications and appeals under Section 636a of The Municipal Act.

During this period as in 1978-79, the Assessment Review Court experienced an increase over former years in complaints relating to all types of properties and in particular complaints relating to large industrial complexes and income producing properties such as apartment houses, office towers, shopping centres and major hotels, all involving considerable amounts of assessment and municipal tax monies. Because of their complex nature, one such complaint can take up to two weeks to be heard which has seriously affected the Court's productivity and the disposition of complaints.

No municipalities were proclaimed at market value for assessment purposes during this period. However, 13 municipalities were re-assessed under the provisions of Section 86 of The Assessment Act, resulting in a considerable increase in the number of complaints in these municipalities. Some 95 municipalities were re-assessed under Section 86 in 1979 for taxation in 1980, resulting in a substantial increase in the number of complaints from these municipalities filed in this period.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional seminars in Gananoque, Sudbury, London and Toronto.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Huntsville, Orillia and Toronto.

Clerks of the Court attended instructional seminars in Toronto, Hamilton, Newmarket and London.

3. Administrative Matters

During this period, the Court continued to review its practice and procedures and implemented changes where necessary in order to improve its efficiency in processing and disposing of complaints. A summary of Assessment Review Court complaints and appeals is set out at the end of this report.

The purpose of the Assessment Review Court is to hear and determine complaints relating to assessments throughout the Province as soon as may be practicable. With the increase in volume and complexity of complaints, the main difficulty in completing the hearings arises in scheduling and disposing of the complaints as soon as practicable so that the assessment rolls can be certified.

Program of Operations for the fiscal year 1980-81

1. The principal objective of The Assessment Review Court in the next fiscal year and in succeeding years will be to continue to improve the procedures for scheduling and hearing complaints to enable the assessment rolls to be certified as soon as possible, especially as the amount of realty and business assessments under complaint now exceeds \$4 billion per annum.

2. The Assessment Review Court is implementing a new court scheduling and disposition system designed to improve the complaint handling process. This system will have visual display terminals located in each of the Regional offices. Complaint information will be keyed and verified through these terminals. In addition, an online inquiry function will be supported. Information about the property in question will be extracted from an assessment file and maintained on a complaint master file. Various management reports and statistics, together with notices of hearings, decisions and court records will be produced. A court scheduling system will be provided with the ability to handle early appearances, appeals and adjournments. Finally, a history sub-system will be included to reduce the costs of operation and to maintain records of completed cases. It is expected that this system will be operational in October, 1980.

A policy submission on the Revision of Assessment Review and Appeal Procedures has

Boards and Commissions

been submitted to the Cabinet and is now the subject of review by the Justice Policy Committee of the Cabinet.

The main purposes of this submission are as follows:

1. To eliminate multiple "trials de novo" procedures at each level of assessment review and appeal. (Assessment Review Court, County Judge, persona designata, and the Ontario Municipal Board.)
2. To relieve County and District Court Judges from hearing quantum appeals in assessment matters and substituting from this level of assessment appeals procedure an appropriate administrative tribunal which would provide a final decision.
3. To designate the Divisional Court of the High Court of Justice as the Court to adjudicate on matters of law and procedure arising from the application of The Assessment Act.

Summary of Assessment Review Court Complaints and Appeals

	1977-78	1978-79	1979-80
Section 52 of The Assessment Act (I)	81,998	86,211	117,132
Section 42, 43 of The Assessment Act (II)	8,013	7,676	6,620
Sections 516, 547, 636a, 636b of The Municipal Act (III)	37,388	42,050	31,099
TOTAL	127,399	135,937	154,851

Footnotes: (I) This section deals with complaints against annual assessment made under Section 40 of the Act.

(II) This section deals with complaints against additional assessment made under Sections 42 and 43 of the Act.

(III) These sections deal with applications and appeals relating to:
(a) School support
(b) Apportionment of municipal taxes
(c) Cancellation, reduction or refund of municipal taxes
(d) Increase in municipal taxes by reason of clerical errors.

Summary of Appeals to County and District Court Judges (Section 55 of the Assessment Act)

1977-78	1978-79	1979-80
10,245	14,547	13,951

Criminal Injuries Compensation Board

Chairman:

Allan Grossman

Vice-chairman (part-time):

Mrs. Anne Stanfield

Vice-chairman (part-time):

Mrs. Audrey Merrett

Members (part-time):

Douglas H. Lissaman, Q.C.

Robert W. Mitchell, Q.C.

Harvey Spiegel, Q.C.

Nathan L. Sandler

Uno Viegandt

Ms. E. Lee Monaco

The Board administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967. Section 3 of the statute which, in part, limited Board membership to a maximum of seven, was amended so that no maximum is prescribed and the Board now has one full-time and eight part-time members, which will facilitate the scheduling of hearings.

Function of Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Thunder Bay, Sudbury, Sault Ste. Marie, Sarnia, Ottawa, Kingston, London and Windsor, where hearings took place in the year under review.

Productivity

The Board heard 858 applications, compared to 713 in the previous fiscal year, an increase of 20 per cent. Total awards granted increased by 24 per cent from \$1,748,484.75 to \$2,170,688.91, while the average award rose from \$1,960.72 to \$2,059.79, or five per cent. The number of applications for compensation declined slightly from 1,219 to 1,190.

Annual Report

This report is available from the Board's offices at 439 University Avenue, 17th Floor, Toronto M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Boards and Commissions

Comparative Summary — Fiscal Years Applications and Disposition

	April 1, 1976 to March 31, 1977	April 1, 1977 to March 31, 1978	April 1, 1978 to March 31, 1979	April 1, 1979 to March 31, 1980
Applications under investigation on April 1	914	1188	1500	1826
Eligible applications received	971	1105	1219	1190
Applications heard (1)	611	570	713	858
(a) Heard and dismissed	63	52	47	75
(b) Heard — further evidence required	5	nil	nil	1
Second hearings	4	nil	1	1
Reviews of award	6	12	6	13
Decisions completed and awards ordered (2)	609	563	713	843
(a) Interim awards	8	1	6	8
(b) Supplementary awards	25	26	12	49
(c) Periodic awards	21	19	20	29
Files closed	86	223	180	245
Lump sum payments	\$1,192,840.37	\$1,310,698.60	\$1,397,994.00	\$1,736,551.32
Periodic payments	230,800.56	301,138.28	350,490.75	434,137.59
Total of awards	1,423,640.93	1,611,836.88	1,748,484.75	2,170,688.91
Average Award (3)	1,958.69	2,328.06	1,960.72	2,059.97
Applications under investigation on March 31	1188	1500	1826	1913

Notes: (1) Includes heard and dismissed and heard but further evidence required

(2) Includes interim, supplementary and periodic awards.

(3) Periodic payments not included in arriving at average award.

Board of Negotiation

Chairman:
W.C. Dymond

Members:
J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
G.W. Swayze

Function

The Board of Negotiation was created by the provision of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Monthly Breakdown Fiscal Year April 1, 1979 – March 31, 1980

	Requests Received	Meetings Held
April	17	8
May	14	11
June	20	13
July	8	9
August	10	14
September	5	11
October	9	12
November	18	8
December	6	8
January	23	13
February	12	11
March	20	17
	162	135

Note: At the end of March 31, 1980, there were 34 files left in process:

- 9 of the 34 are to be scheduled and
- 25 are scheduled and waiting to be held

Boards and Commissions

Activity Report — Fiscal Year 1979 — 1980		Two-Year Follow-Up Report Fiscal Year 1978 — 1979	
Expropriating Party	Number of Applications	Number of requests for meetings (1978-79)	189
Corporation of the City of Brampton	1	Number of settlements reported following negotiations in the period April 1, 1978 to March 31, 1979	41
Burlington	1	Requests for meetings — cancelled	20
Hamilton	1	Balance to be surveyed by Two-Year Follow-Up	128
Kingston	1	This Report is based on replies to 128 Questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1978-79 meetings.	
Nepean	10	Questionnaires mailed	128
Oshawa	1	Replies received	124
Peterborough	1	Unanswered	4
Thunder Bay	1	Settlements (Board of Negotiation's Recommendation a factor)	58
Toronto	1	Proceeded to, or intending to proceed to Land Compensation Board	39
Windsor	6	Still Negotiating	21
Woodstock	1	In Abeyance, pending, not presently being negotiated	6
Corporation of the Town of Halton Hills	1		128
Corporation of the Township of Glenelg	1		
Orillia	1		
Corporation of the Village of Elora & Corporation of the County of Wellington	1		
County of Northumberland	1		
Oxford	4		
Victoria	1		
Ministry of the Environment	2		
Government Services	10		
Housing	1		
Transportation and Communications	64		
Metropolitan Separate School Board	4		
Municipal Corporation of the County of Bruce	1		
Ontario Hydro	11		
Regional Municipality of Durham	1		
Halton	6		
Hamilton-Wentworth	1		
Niagara	1		
Ottawa-Carleton	7		
Peel	2		
York	6		
Town of Tillsonburg	1		
Union Gas	9		
	162		

Land Compensation Board

Chairman:

R.M. McGuire

Vice-Chairmen:

R.M. Grant, Q.C.

J. Worrall, Q.C.

S.R. Cole

Members:

G. Campbell, Q.C.

J. Dobbs

G.M. Hobart

G.P. Marriott (Retired April 30, 1980)

D.W. Middleton

E.H. Reed (Retired April 30, 1980)

Registrar:

C.E. Warner

Established

Under the authority of The Expropriations Act, December 1, 1970.

Function

The Land Compensation Board is an arbitration tribunal to determine compensation to be paid in the expropriation of property in the Province.

Procedural changes recently introduced have reduced the waiting period for the scheduling of hearings to two to three months.

There is a continuing reduction in the number of outstanding applications but the Board is experiencing some difficulty in bringing the inactive files on for hearing or to close them out.

Notices of Arbitration filed	152
Applications Outstanding as at March 31, 1979	330
Applications Outstanding as at March 31, 1980	312

Boards & Commissions

Agencies, boards and commissions operating within this Ministry and which have financial and administrative relationships with the Ministry:

Advisory Committee of Public Trustee on Investments

Assessment Review Court

Board of Negotiation

Criminal Injuries Compensation Board

Finance Committee for the Investment of Court Funds

Land Compensation Board

Ontario Law Reform Commission

Ontario Municipal Board

Statutory Powers and Procedures Rules Committee.

Agencies, boards and commissions connected with or working with this Ministry but who do not have any financial or administrative relationship with the Government:

Advisory Committee on Legal Aid

Association of Professional Engineers of Ontario

Judicature Act Rules Committee

Judicial Council for Provincial Judges

Law Foundation of Ontario

Law Society of Upper Canada

Provincial Courts (Family Division) Rules Committee

Registration Board of Ontario Association of Architects.

Background Papers

Recent Developments in the Law Relating to Children

A background paper in the previous Annual Report explored the status of children in Ontario in light of the United Nations Declaration of the Rights of the Child. The Ministry of the Attorney General has recently been involved in two major developments that significantly strengthen the rights of children in Ontario law.

Reform of Child Custody Law

The first development was the introduction on December 14, 1979 of The Children's Law Reform Amendment Act, 1979, Bill 205. The Bill received first reading only. It was amended and reintroduced as Bill 140 on June 19, 1980. The Bill proposes a comprehensive reform and consolidation of child custody law and procedures aimed at strengthening and elaborating the principle that the best interests of the child should be the focus of legal proceedings in family disputes about custody of a child. Unfortunately, because of the divided constitutional responsibility for family law, provincial legislation may not prescribe procedures for resolving custody disputes between parents who are seeking a divorce. Divorce is the subject of federal legislation. Thus, the provincial law deals primarily with disputes about custody where no divorce is sought. Where a children's aid society wishes to remove the child from the custody of both parents for the protection of the child the proceedings are conducted under the provincial Child Welfare Act, administered by the Ministry of Community and Social Services. Although these limits on the scope of the proposals must be taken into consideration, the commitment to recognition of the best interests of the child will have an effect beyond the legal boundaries of the legislation.

Although our courts have striven to serve the best interests of children they have done so with virtually no legislative guidance. The Infants Act, our major custody statute until 1978, did not mention the best interests of the child. The Family Law Reform Act, 1978 does declare that custody is to be determined in accordance with the best interests of the child, but there are no guidelines and few procedures in the Act for giving effect to that principle. Accordingly, the introduction of the children's law reform proposals marked a major step forward.

Best Interest Guidelines

As anticipated in the previous background paper the proposed legislation lists a number of factors that are deemed to be relevant to the determination of the child's best interests. Of course, the list is not intended to be exhaustive. Room must always be left for factors relevant to the needs of the particular child and for development of new areas of concern about children's interests. However, the list does represent a general consensus about some of the essential elements to be considered in weighing the best interests of the child.

First and foremost among the factors is the love, affection and emotional relationship between the child and the persons around him. The necessity of a loving parent, sensitive to the needs and feelings of the child, surely is beyond dispute. Therefore, this factor reflects the principle that the child should be in the custody of the person or persons who, from the child's point of view, mean the most in terms of the child's emotional and psychological growth and development.

Corollary to this ingredient of the child's interests is the ability and willingness of the parents or other persons seeking custody to meet the child's emotional and psychological needs, as well as his social and basic economic needs.

In recent years much concern has been expressed about the adverse effects on the child when established personal relationships are disrupted. Therefore, the guidelines direct consideration to the stability of the child's past home environment relative to the proposed family unit. Also relevant in this context are both future plans for the child and the blood or adoptive relationship between the child and the person seeking custody.

The hallmark of reform of private custody law is the recognition given to the importance of the views and preferences of the child. As the person most affected by a custody dispute the child has a self-evident interest in having his views and preferences taken into consideration along with other factors relating to his interests. However, because of the ultimate responsibility of parents for the care and control of their children and because of the varying abilities of children to assess their own life situation, the views and preferences of the child are not elevated to a position of paramountcy.

As mentioned above, the disruption in a child's life that accompanies a custody dispute can have traumatic effects. A child's sense of time differs vastly from an adult's sense of time. A five-year-old child who has to wait a year or even two years for the final determination of a custody dispute has spent 20 per cent of his life in a state of conflict and uncertainty. The psychological impact of such a disruption can have serious repercussions for the child's emotional well-being. The primary source of delay is the parties themselves, who become embroiled in tactical battles and legal manoeuvring in attempts to strengthen their case. In order to focus the attention of the parties and the court on the need of the child to have the dispute resolved as quickly as possible the legislation sets a six-month time limit for completion of legal proceedings.

Joint Custody

One area in which the law is too blunt an instrument in dealing with family matters is in the arbitrary division between custody and access. The person who has custody has virtually all the rights of a parent in respect of the person of the child. The person who has access often has only the right to visit or communicate with the child. Thus, a loss of custody is the loss of the right to choose the child's school and extra-curricular activities, the loss of the right to consent to medical treatment, and so forth. A number of parents are willing to accept that it may be better for the child to reside with the other parent, but do not want to lose all influence over the child that would result from giving up custody. Furthermore, they feel it unfair to bear the social stigma of having "lost" custody of their child, when in fact they wish to act in the best interests of the child. Finally, it is important in the eyes of the child to know that he is equally esteemed by both parents.

The courts have been somewhat reluctant to make orders for joint custody because of uncertainty about the legislative authority for such orders and because of uncertainty about the implications of joint custody. They are also concerned about imposing joint custody on the parents where the parents have not demonstrated some degree of co-operation and sharing. It is sometimes felt that joint custody means the child will live half his

time with one parent and half the time with the other parent. Although such an arrangement seems to work satisfactorily in some cases, its use would likely be quite limited. In most cases joint custody would mean that one parent would have day to day care and control of the child and the other parent would have liberal access plus the power of joint decision making.

Because joint custody is a developing concept the proposed legislation recognizes the authority of the court to award custody to more than one person, in an appropriate case but does not spell out how and when joint custody should be ordered.

Child Abduction

One of the most serious problems in family law today is the problem of the parent who abducts the child in breach of the custody or access rights of the other parent. Estimates of the number of abducted children vary; however, it is generally felt that the consequences of an abduction are usually so harmful to the child as to warrant special attention in the law. Regretably, however, the law cannot eliminate child abduction; it can only limit it. Some of the parents who become involved in abducting a child are so overwrought with hostility and emotion that they do not take the law into account when they kidnap the child. Accordingly, law can only make it more difficult to apprehend the child and less attractive to retain the abducted child.

The other limitation on the law is its jurisdictional aspect. Laws or court orders made in one province or country do not automatically bind persons in another province or country. This could provide an incentive for a kidnapper to take the child out of Ontario to another province or another country beyond the reach of Ontario law. Therefore, the problem of child abduction must be tackled not only on the provincial level but also at the national and international level as well. In recent years the consensus of international opinion has gathered around a system to remove the incentive to abduct a child from one jurisdiction to another.

The Ontario proposals work in two ways. The first principle is that the Ontario courts should not normally make custody orders in respect of a child who does not habitually reside in Ontario, even if no court order has been made in the other

Background Papers

province or country. This means that a parent who brings an abducted child to Ontario cannot expect the Ontario courts to look sympathetically on his case and make a new custody order contrary to the rights of the parent outside Ontario. At its simplest, the proposal is to close the legal door to kidnappers bringing children into Ontario. Ontario will not become a haven for child abductors. We have been fortunate insofar as our courts have already recognized this principle. The proposed legislation gives further definition to the court decisions and provides uniform rules for the further guidance of the court.

Whenever we are dealing with an issue as unique as a child's best interests the application of inflexible rules may sometimes work to the detriment of the interests we are trying to protect. Accordingly, provision is made for those exceptional cases where an Ontario court ought to make an order for custody of a child even though he was abducted outside Ontario and brought here. For example, the parent may have brought the child to Ontario to escape the oppressive regime of a foreign country. Therefore, it is proposed that where the child would suffer serious harm an Ontario court may make a custody order even if the child is not habitually resident in Ontario.

Where the abducted child would not suffer serious harm the Ontario court could make an interim order and order the child back to the proper province or country.

The proposed legislation deals with kidnapping in another way as well. It provides that where a custody or access order has already been made outside Ontario, a party may, provided certain criteria are met, apply to have the order recognized in Ontario and enforced as if it were an Ontario order. This is basically the way in which the Uniform Extra-Provincial Enforcement of Custody Orders Act operates. That Act is in force in eight provinces. It is *not* a reciprocal Act. It is unilateral. It is autonomous. So is our provision. The enacting province undertakes to enforce the orders of the other provinces, regardless of whether other provinces will recognize its orders.

The reason that approach has been adopted in Canada is quite simple. The ability of an Ontario court to act in the best interests of a child kidnapped from Manitoba should not depend upon the intergovernmental problem of whether

or not there is a reciprocal agreement between the two provinces.

As these provisions also apply to orders made outside Canada, some extra safeguards had to be built in regarding recognition of foreign orders because there may be jurisdictions in the world that do not recognize such elementary principles as the equal rights of parents to custody, the need to consider the best interests of the child, and the applicability of rules of natural justice.

Both the provisions regarding assumption of jurisdiction and these provisions for enforcement are being considered by the Uniform Law Conference in its review of The Extra-Provincial Custody Orders Enforcement Act. Accordingly, the Ontario provisions may well become the basis of a new Uniform Act.

While the Ontario proposals were being developed work was proceeding on the international level for an international convention on the civil aspects of international child abduction. This was the project of the Hague Conference on Private International Law. Canada has been an active supporter of the Hague Convention and Mr. H. Allan Leal, Q.C., Deputy Attorney General For Ontario, was head of the Canadian delegation.

As suggested above, at the international level it has been agreed that the most effective way to deter child abduction is for each state to agree that it will first respect the rights of custody that exist under the laws of other states. Where this approach is adopted the abducting parent gains no advantage in removing the child from his own state and taking him to a foreign state. The courts of the foreign state will not be willing to make new custody orders. Rather, the foreign state will undertake to secure the prompt return of a child who is in that state in breach of custody rights in the child's own state. The basic principle behind this approach is that decisions about the custody of a child ought to be decided in the state or jurisdiction where the child habitually resides. Therefore, when he is abducted to a foreign state he ought to be returned to the state where he habitually resides so the dispute can be determined there. In this regard the influence of the International Convention on the Ontario proposals is obvious. It is to be expected that eventually the Hague Convention will be made to apply to Ontario. However, as the Convention will apply only to those states that ratify the Convention,

the Ontario proposals would continue to apply in respect of those states which are not part of the Convention.

In considering the Ontario proposals and the Hague Convention one must keep in mind that they are dealing only with the civil aspects of child abduction, such as the authority of the courts to make custody orders. Child abduction may also have criminal aspects for which other remedies exist.

Obviously the effective enforcement in Ontario of custody orders made here is a key element in tackling the problem of child abduction. Under The Family Law Reform Act the court has the power to make orders to restrain harassment of a person with lawful custody of a child, to find a person in contempt for breaching a court order, and to provide disclosure from private or public records of the address of a person who has a child in his custody. These provisions are incorporated in the proposed children's law reform legislation. In addition, two important new powers are included in the proposals. First, the courts would be given the power to direct the police to apprehend a child who is being unlawfully withheld from a person entitled to custody of or access to a child. One of the most serious problems is that there has been no clear authority for the police to intercept a parent fleeing with the child in contravention of the right of the other parent to custody or access. This proposal would help to close that gap in our law.

The second power is the power of the court to direct a person to surrender his passport where there are reasonable grounds to suspect that the person may unlawfully remove or retain the child outside Ontario. Although this power will not be helpful in cases where a person can travel without a passport, in a proper case it will strengthen the ability of the courts to deter an abduction.

In a world changing as fast as our world and in a society with ever more complex social issues it would be unrealistic to expect that clear legal remedies could be prescribed for such a difficult problem as the resolution of child custody disputes. The role and capacity of law in relation to many of our social problems is much more limited than we may realize. Although it has the power of authority it cannot provide us with definitive answers to every conceivable problem and eliminate our fear of uncertainty. At best it

can provide some signposts to direct us on our way, but the journey is ours to make. We ought to keep in mind the advice of the great American jurist Benjamin Cardozo:

"The inn that shelters for the night is not the journey's end. The law, like the traveller, must be ready for the morrow".

Separate Legal Representation

The second major recent development in the law relating to children has been the implementation of the child representation program through the Office of the Official Guardian. The catalyst which led to the formation of the Child Representation Program was the establishment, in January 1977, of the Attorney General's Committee on the Representation of Children in the Provincial Court (Family Division). The Attorney General's Committee presented two reports, both of which recognized the need for the representation of children in some, but not all, proceedings under The Child Welfare Act. The recommendations of that Committee resulted in the enactment of section 20 of The Child Welfare Act, 1978. This legislative provision was proclaimed in force as of February 1, 1980 and ensures that, when necessary, independent legal representation will be provided to children in neglect and abuse proceedings.

The co-operation of the private bar and the Legal Aid Plan has been an important factor in the success of the Child Representation Program which provides representation to children throughout Ontario. The program at present includes more than 500 members of the private bar, each of whom has attended a workshop conducted by the Official Guardian's Office. Upon completion of this course, lawyers then become members of a panel within their own judicial area and provide independent representation for children in abuse and neglect proceedings. Panels have been set up in 46 judicial areas which basically correspond to Ontario's counties and districts. Local committees have been established in these areas to serve as advisory bodies to the Child Representation Program.

Within the judicial district of York, referrals are made directly to the Office of the Official Guardian. In other judicial areas of Ontario, referrals are made to the local Legal Aid Area

Background Papers

Director who assists the Official Guardian in the administration of the program. When a referral is received by either the Official Guardian's Office or a local Legal Aid Area Director, a panel lawyer or a representative from the Official Guardian's Office is assigned a case on a rotational basis. Only those members of the private bar who have participated in a workshop are entitled to be panel members and to be paid by the Official Guardian for representation of children pursuant to section 20 of The Child Welfare Act.

The Official Guardian has established a tariff for panel lawyers and requires all statements of accounts to conform strictly to its provisions. The panel lawyers receive regular newsletters from the Office of the Official Guardian, as well as updates in the law.

The Official Guardian's Office has conducted two sets of workshops across the province. The first workshops were held in the autumn of 1979 and were seven in number; the second set, of which

there are six, began in June 1980 and were completed in October. The 1979 and 1980 workshops used a multi-disciplinary approach which involved lawyers, psychiatrists, psychologists and social workers. Not only do lawyers attend these courses, but also representatives from Legal Aid, the judiciary, children's aid societies, and various community groups.

In the first six months of the program approximately 1,500 children received independent legal representation. The Child Representation Program receives referrals from the court, children's aid societies and other community organizations, and private persons, including children themselves.

The implementation of the Child Representation Program establishes Ontario as a leader in the development of separate legal representation for children in Canada.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anglican Church of Canada Act, 1979
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Law Reform Act, 1977
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing and Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1978
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act
Interprovincial Subpoenas Act, 1979

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act
Minors' Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Occupiers' Liability Act, 1980
Ontario Law Reform Commission Act
Ontario Municipal Board Act

Appendix

Partition Act
Partnership Act
Pawnbrokers Act
Perpetuities Act
Powers of Attorney Act, 1979
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Court (Civil Division) Project Act, 1979
Provincial Courts Act
Provincial Offences Act, 1979
Public Accounting Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance Orders
Act
Regulations Act
Regulations Revision Act, 1979
Religious Institutions Act
Religious Organizations' Lands Act, 1979
Replevin Act

Sale of Goods Act
Settled Estates Act
Sheriffs Act
Short Form of Conveyances Act
Short Form of Leases Act
Short Form of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutes Revision Act, 1979
Statutory Powers Procedures Act, 1971
Succession Law Reform Act, 1977
Summary Convictions Act
Surrogate Courts Act

Ticket Speculation Act
Time Act
Trespass to Property Act, 1980
Trustee Act

Unconscionable Transactions Relief Act
Unified Family Court, 1976
University Expropriation Powers Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act

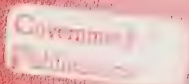
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Ministry of the
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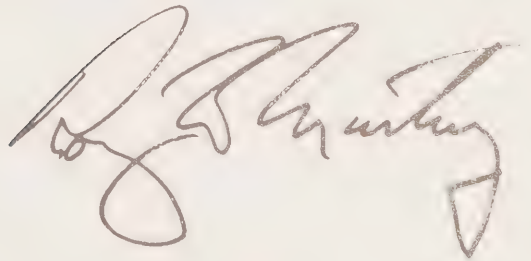
annual report

1980-81

To His Honour the Lieutenant Governor in
Council

May it please Your Honour:

It is my pleasure to present to your Honour the
Annual Report of the Ministry of the Attorney
General for the year 1980-81.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry', written in a cursive style.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



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Letter from the Deputy Attorney General

August 30, 1981.

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
18th Floor, 18 King Street East,
Toronto, Ontario.
M5C 1C5

Dear Mr. Attorney:

In accordance with the provisions of section 7 of the Ministry of the Attorney General Act, I am pleased to be able to present to you our seventh Annual Report describing the operations of the Ministry throughout the year 1980-81.

A number of problems have occupied our attention during the last year. We have continued to play our part, through participation in intergovernmental negotiations and representation in the courts, in working towards the renewal of the Canadian constitution. Law reform has made more heavy demands on the Ministry. We are reviewing closely the work of the Civil Procedure Revision Committee, and will have a new Judicature Act and Rules of Practice in place by mid-decade. At the same time federal-provincial working groups have almost completed the formulation of uniform Evidence legislation and continued intensive scrutiny of the Criminal Code. On many other fronts, proposals for legislative reform are currently under study.

At the same time as we have been making these efforts to reform the law and improve service to the public, we have had to meet the continuing pressures of budget restraint. It is a critical and continual obligation on us to bring the urgent needs of the administration of justice to the attention of those responsible for setting fiscal priorities. While this is the case, the Ministry must strive to meet its responsibilities within existing budgets. The fact that the justice system continues to function as well as it does in Ontario despite shortfalls in budget is eloquent tribute to the work and energy

of those public servants working within the Ministry. This report reflects their contribution to the administration of justice; it cannot adequately reflect their humanity, their spirit of public service and their dedication to justice.

All of which is respectfully submitted.

Yours very sincerely,

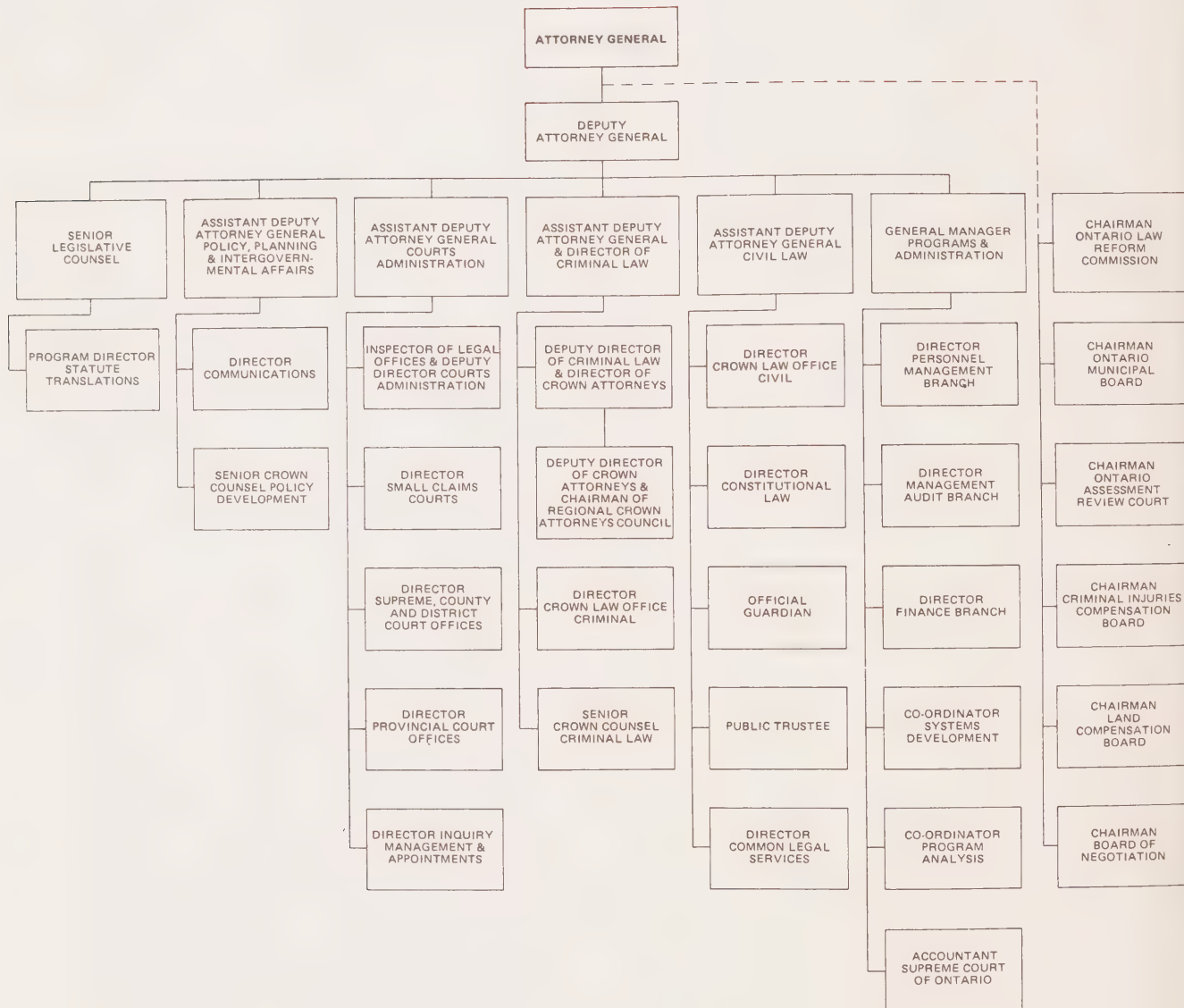


H. Allan Leal,
Deputy Attorney General.



The Ministry of the Attorney General

Senior Positions



OFFICE OF THE LEGISLATIVE COUNSEL

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

The office provides a complete central legislative drafting service for the Government, members of the House and petitioners for private legislation.

The Legislative Counsel is part of the Ministry of the Attorney General in respect of Government matters but has an independent function as an officer of the Legislative Assembly in respect of the House procedures and work of private members. The latter function is the traditional office of law clerk of the House.

The office consists of eight lawyers, eight secretaries and clerks, four legislative editors and a French translation staff of six translators, an administrative executive, an editor and two secretaries.

In particular, the duties and responsibilities of the office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes and office consolidations.
4. Maintaining public files of regulations and publishing the regulations.
5. Translating selected statutes into the French language and publishing the French translations for public convenience.

The statutes are maintained updated in a form capable of being printed at any time. This update is used for office consolidations and decennial revisions. The method of printing is undergoing a transition to the use of magnetic tape which will eventually result in the storage and update of all the statutes in this form. The resulting data base will be available for retrieval purposes.

The preparation and publication of the Revised Statutes, 1980 and Revised Regulations, 1980 went forward for distribution in 1981. Innovations include a comprehensive general index to the Statutes, a schedule collecting all the provisions that have been unconsolidated and unrepealed

since 1867 and a table of all private Acts for the same period.

The French translation program consists of the translation and publication of selected Ontario statutes and regulations. The translations published under the imprimatur of the Attorney General have the status of official translations. Questions of interpretation are governed by the text in the form in which the Act was passed by the Legislature.

Number of Bills Drafted, Introduced and Passed

	1977	1978	1979	1980
Government bills —				
Drafted	206	158	180	178
Introduced	127	125	133	101
Passed	70	106	114	84
Private bills —				
Introduced	57	49	32	51
Passed	43	47	28	44
Private member's bills —				
Drafted	96	99	102	146
Introduced	80	89	79	130
Passed	1	0	1	1

Number of pages in statute book	1010	1384	1056	884
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Number of Regulations Drafted and Filed

	1977	1978	1979	1980
Drafted	1156	1227	1122	1316
Filed	975	1007	962	1141
Published pages in Gazette	1797	1965	2568	2132

Program of Operations for the fiscal year 1981-1982

Continuation of normal function.

Completion of the publication of R.S.O. 1980 and R.R.O. 1980.

Development of a system for printing, storing and updating of statutes and regulations by means of magnetic medium.

The Ministry of the Attorney General

POLICY DEVELOPMENT DIVISION

Archie Campbell, Q.C.,
Assistant Deputy Attorney General

The Division

At present the division, which consists of six lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 140 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and Members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the Justice Committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Examples of Activity

Legislation

1. The Libel and Slander Amendment Act, 1980, is designed to cope with recently developed methods of communication by extending the definition of broadcasts. It also includes a limited extension of the defence of fair comment. In force as of June 19, 1980.
2. The Occupiers' Liability Act, 1980, and The

Trespass to Property Act, 1980, together facilitate continued co-operation between agricultural and recreational groups. The Occupiers' Liability Act replaces the common law duties of an occupier with a single duty of care based on the rules of negligence. Certain exceptions are specified, including a lower duty of care with respect to trespassers and persons allowed to enter certain classes of land for recreational activity. The Trespass to Property Act provides more effective sanctions for trespass and establishes a system whereby an owner can give a limited right of entry to permit recreational activity.

These Acts strengthen the property rights and protection of land occupiers and, at the same time, encourage occupiers to make their land available for compatible recreational activities. In force as of September 8, 1980.

3. The Territorial Division Amendment Act, 1980, creates the new Judicial District of York Region. This division took responsibility for the Act, since it creates a territory for judicial purposes. In force as of June 11, 1980.

4. The Dog Owner's Liability Act, 1980, replaces the Vicious Dogs Act. The Act makes the dog's owner liable for damages resulting from the attack by his dog. Liability does not depend on negligence or prior knowledge of the dog's vicious propensity. The Act also provides for an order that the dog be destroyed. In force December 12, 1980.

5. The Juries Amendment Act, 1980, permits blind persons and persons more than 70 years of age to serve on juries. The Act requires employers to grant employees leave of absence, with or without pay, for the purpose of serving on juries. In force December 12, 1980.

6. The Judicature Amendment Act, 1981, provides for one more judge of the Supreme Court. In force July 27, 1981.

7. The County Courts Amendment Act, 1981, increases the monetary jurisdiction of the county and district courts to \$15,000. In force as of September 8, 1981.

Studies, Papers and Consultations

1. Lawyers from the division are assisting the subcommittee of the Rules Committee studying the Williston Report.

-
2. A lawyer from the division is acting as counsel to the Task Force on Vandalism.
 3. A lawyer from the division acted as secretary and co-ordinator of the Rules Advisory Committee for the Provincial Court (Civil Division) of Metropolitan Toronto. The rules of the court were promulgated in connection with the proclamation of the Provincial Court (Civil Division) on June 30, 1980.
 4. A lawyer from the division continues his appointment to the Board of the Residential Tenancy Commission. Since the division helped develop the residential tenancy legislation, the Board can be informed of the insights gained during the process of developing the legislation.
 5. Periodic reports were prepared by a lawyer of this division on regulatory reform for the Cabinet Committee on Regulations Review.
 6. A lawyer from the division continued to work on the Rules Committee of the Provincial Courts (Family Division).
 7. The division has participated in the Attorney General's Liaison Committee on Enforcement of Family Law Orders which is reviewing some of the practical and administrative problems that exist in enforcing family law orders, such as custody orders and non-molestation orders.
 8. A lawyer from the division was a member of the Tort Compensation Committee which reported to the Bench and Bar Committee. Recommendations were submitted regarding periodic and reviewable judgments in personal injury cases in appropriate circumstances.
 9. A lawyer from the division is chairman of the Advisory Committee on the draft Construction Lien Act which will replace the Mechanics' Lien Act. The aim is to respond to the existing complexities and uncertainties in this area of the law by developing straightforward legislation, which would take into account the problems that concerned parties have encountered under the present law.
 10. A guidebook on Property Protection and Outdoor Opportunities which deals with The Occupiers' Liability Act and The Trespass to Property Act was prepared by a lawyer of this division. As well, a guidebook on Minor Offences which explains the operation of The Provincial Offences Act was prepared.
 11. A lawyer from the division chaired the Law Society of Upper Canada's Continuing Education Program on the Provincial Court (Civil Division) in November, 1980.
 12. To publicize The Occupiers' Liability Act and The Trespass to Property Act a lawyer from the division participated in seminars sponsored by universities, school boards and recreational organizations.
 13. A presentation on development in children's law and family law was made to the Family Court Judges' Association and to public seminars on legal representation of children.
 14. Lawyers in the division took part in the Law Society of Upper Canada's television programs on family law, legal aid and occupiers' liability and trespass and assisted in the preparation of the script for the Small Claims Court program.
 15. The division continued to give assistance to the Interministerial Task Force which is responding to and assisting in the implementation of federal legislative proposals regarding young offenders.
 16. Lawyers from the division participated in the federal-provincial constitutional discussions regarding family law and section 96 of the British North America Act.
 17. The Children's Law Reform Amendment Act which was developed by the division was re-introduced into the Legislature. This is a comprehensive Bill dealing with the custody, access and guardianship of children. It includes implementation of the Hague Convention on the Civil Aspects of International Child Abduction.
 18. A lawyer from the division prepared the booklet on Provincial Court (Civil Division) which is available to the public in the court offices in Metropolitan Toronto.
 19. Working with the office of the General Manager, the division began an evaluation of the effectiveness of the Provincial Court (Civil Division) project in Metropolitan Toronto.
- ### Uniform Law Conference
- The Conference consists of commissioners and other participants from all provinces, the territories and the federal government who meet annually to consider reports and propose statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The Ministry of the Attorney General

The division has continued to contribute to the work of this Conference. Two new Acts, The Uniform Children’s Status Act and The Uniform Family Support Obligations Act were adopted by the Conference. These Acts were substantially based on The Children’s Law Reform Act and Part II of The Family Law Reform Act respectively which were developed by this division.

French Language Services Branch

Etienne Saint-Aubin,
Co-Ordinator

As the Ministry’s French-language services program expanded and became a significant element of its operations, the need for full-time attention and co-ordination became evident. In this regard, an

office of Co-ordinator of French Language Services was established to ensure that the momentum generated to date will be maintained, and appropriate attention and study devoted to the further expansion of the program.

On December 31, 1979, there occurred the most important development to date in the Ministry’s French-language services program and probably one of the most significant in the overall administration of justice. On this date, an amendment to the Criminal Code of Canada, passed at the request of the Attorney General of Ontario in June of 1978, was proclaimed and thereby took effect in Ontario. Consultation between Ontario and the federal government had taken place in the interim period between enactment and proclamation to ensure an orderly implementation. As part of this implementation,

Designated Courts

Designated Counties/Districts	Provincial Court (Family Division)	Provincial Court (Prov. Offences)	Small Claims
Algoma	Elliot Lake Blind River Hornepayne	Hornepayne	Wawa Elliot Lake
Cochrane	Cochrane Hearst Kapuskasing Smooth Rock Falls	Cochrane Kapuskasing Hearst Smooth Rock Falls Timmins	Cochrane Timmins Kapuskasing Iroquois Falls
Essex			Windsor
Niagara South			Welland Niagara Falls
Nipissing	North Bay Sturgeon Falls	North Bay Sturgeon Falls Mattawa	North Bay Sturgeon Falls
Ottawa-Carleton	Ottawa	Ottawa	Ottawa
Prescott-Russell	L’Orignal Rockland	L’Orignal Rockland Hawkesbury	Hawkesbury Rockland
Stormont-Dundas -Glengarry	Cornwall		Alexandria Cornwall
Sudbury	Sudbury Espanola	Sudbury Espanola	Sudbury Espanola Chapleau
Timiskaming			Haileybury Englehart Kirkland Lake

Note County/District and Supreme Courts not yet designated.

a course in French legal terminology was given to those judges and Crown attorneys who spoke French but needed some additional preparation to deal with trials in the French language. This was repeated in 1981 for newly appointed Crown Attorneys.

This amendment, known as Bill C-42, provides upon request anywhere in Ontario, for a trial before a judge or judge and jury which speaks both English and French, for an accused charged with a criminal offence who is French-speaking. Since December 31, 1979, a number of trials have been conducted pursuant to these new provisions which, for some areas, involve the movement of judges, Crown Attorneys and other court support staff from areas which have these resources. Most of the areas where the main volume arises have such resources in place. Accordingly, the rule is that a trial be heard in the locality in which the matter arises. The exception to this occurs in those matters where trial by jury is requested in an area which does not have a French-speaking population base large enough to permit empanelling a jury. In such cases, a change of venue provision operates.

For matters other than under the Criminal Code, continued extension has taken place, building on the legislative footing which had been prepared carefully in the earlier stages of the French-language services program. Accordingly, designations of courts by Order-in-Council pursuant to section 127 of the Judicature Act of Ontario have brought the availability of bilingual trials to the Provincial Court (Family Division), Small Claims Courts and Provincial Offences Courts. The chart on the preceding page shows which courts are so designated.

Planning is continuing for the imminent designation of other courts. In this regard, there have been ongoing vigorous efforts by various branches to increase the Ministry's resources in order to permit further extension. Notable successes have been in the area of Crown Attorneys, and court reporters.

During the year, visits were made to the court offices affected by the Ministry's policy on French language services to ensure awareness of the policy and to answer any concerns of the staff.

The policy which came into effect this year

deals primarily with staffing, over-the-counter and telephone response, correspondence, signs, publications and forms.

There was continued strong interest in French language training throughout the Ministry.

Provincial Offences Act Implementation

David Hunter,
Executive Co-Ordinator

The operation of The Provincial Offences Act has progressed smoothly throughout the reporting year 1980-1981. The principle activities of this office with respect to the implementation of this Act are as follows:

1. Assistance to municipalities to use Part I of The Provincial Offences Act;
2. assistance to other Ministries within the government to use Part I of the Act;
3. development of regulations to establish Fine Option Programs;
4. continued provision of training programs to interested parties to familiarize them with the Act;
5. extensive participation in Law Society programs to provide information to the profession; and
6. development of policy to permit municipalities to utilize the civil enforcement procedures under the Act.

Communications Branch

David Allen,
Director

The Communications Branch is responsible for the preparation, publication and distribution of booklets, pamphlets, films, news releases, statements, speeches and other material to explain Ministry proposals, programs and legislation. It also handles daily inquiries from the news media and public. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters.

The Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the administration of justice in general.

The Ministry of the Attorney General

During 1980-81, the Branch co-ordinated two large-scale multi-media campaigns to publicize and explain to the general public important new legislation.

The first campaign in the Spring and Summer of 1980 explained the Provincial Offences Act, which was proclaimed in force March 31, 1980. Advertisements announcing highlights of the Act were placed in major Ontario daily and weekly newspapers, and 30-second announcements were run on selected radio stations throughout the Province. A poster was distributed to all Liquor Control Board of Ontario outlets, and to police stations and court offices across the Province. An explanatory pamphlet and booklet was produced in co-operation with the Policy Development Division and was offered to the public free of charge in all advertising.

From April 1, 1980, to March 31, 1981, the Communications Branch filled written and telephone requests for 50,000 English pamphlets, 12,000 English booklets, 4,000 French pamphlets, 2,000 French booklets and several hundred posters. English and French pamphlets were also distributed in about 400 supermarkets across Ontario. During the initial eight-week distribution period beginning April 1, 1980, 95,000 English pamphlets and 5,000 French were picked up by interested members of the public. A second eight-week placement, resulted in the distribution of 35,000 English and 2,000 French pamphlets.

In the Fall of 1980, the Branch co-ordinated a campaign to publicize The Occupiers' Liability Act and Trespass to Property Act, both of which took effect in September, 1980. Again, newspaper and radio advertising was employed, and pamphlets, booklets and posters were widely distributed to recreational and agricultural groups, and to the police, courts, schools and general public. Almost 60,000 English pamphlets and 2,000 French were picked up in supermarkets in the two months following proclamation. The Branch co-operated with the Communications Branch, Ministry of Agriculture, to produce a half-hour film explaining the two new Acts.

During the year, the Branch ran its third annual Christmas-season campaign to warn motorists of the tremendous risks associated with drinking and driving. The potential tragic consequences of drinking/driving were outlined through newspaper and radio advertising and posters.

The Branch continued to experience heavy demand for its publications on Family Law and Small Claims Courts. Requests for the materials came from individuals, community groups, and from schoolteachers who asked for class sets of the materials.

A new pamphlet and booklet to explain the workings of The Provincial Court (Civil Division) of the Municipality of Metropolitan Toronto was produced. A pamphlet concerning The Public Institutions Inspection Act was also prepared as a guide for panelists called under the provisions of the Act.

A significant effort of the Branch to promote public understanding of Ontario law was its participation with several other Government ministries and the Law Society of Upper Canada in a 13-part television series entitled The Law and You. The half-hour programs were run Sunday evenings on Channel 11, CHCH-Hamilton. This Ministry produced five of the 13 programs, on the following subjects: Family Law, Minor Offences, Small Claims Court, Occupiers' Liability and Trespass to Property, and racism. The programs resulted in additional demand for the Branch's publications.

CRIMINAL LAW DIVISION

R.M. McLeod, Q.C.,
Assistant Deputy Attorney General
and Director of Criminal Law

The Division comprises two branches, the Crown Attorneys' System and the Crown Law Office — Criminal, and is responsible for all criminal prosecutions and the provision of legal advice to the Attorney General and Deputy Attorney General in all Criminal Law matters.

Crown Attorneys System

J.D. Takach, Q.C.,
Deputy Director of Criminal Law
and Director of Crown Attorneys

W.H. Langdon, Q.C.,
Deputy Director of Crown Attorneys

History

Prosecution authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded

it became increasingly difficult to carry out this function from one central office. In 1857, authority was granted for the establishment in each county of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the Province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys' Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Crown Attorneys' System is composed of 220 lawyers who specialize in criminal law. In Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and three Crown Counsel, who are assigned to local offices that require temporary assistance, and who also perform various special assignments as delegated by the Director and Deputy Director. There are 48 full-time Crown Attorneys, one part-time Crown Attorney, four Deputy Crown Attorneys in York County and 162 Assistant Crown Attorneys, 20 of whom are female.

The largest local office is the Judicial District of York, where the Crown Attorney is assisted by four Deputies and 63 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to eleven lawyers. Finally, the Crown Attorneys supervise the 485 part-time Assistant Crown Attorneys throughout

the Province who are engaged on a daily basis from time to time.

Responsibilities

The Crown Attorneys' System is responsible for the conduct of prosecutions under the Criminal Code and other federal statutes such as The Juvenile Delinquents Act. Crown Attorneys also conduct prosecutions under such Provincial statutes as The Highway Traffic Act and The Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They make recommendations to the police and private citizens, who may wish to lay charges, as to the appropriate charge, and appear as counsel for the Crown at bail hearings and at trial at all levels of court. Crown Attorneys also watch over private summary conviction prosecutions and intervene if the interests of the community require it.

The following are some of the more significant areas of concern and achievement in the Crown Attorneys' System during the year:

1. Inquests

By statute, the Crown Attorney is appointed as Counsel to the Coroner during the inquests, and in effect, has a considerable role to play. He examines the witnesses, and makes summations to the jury. There are approximately 300 inquests a year which the Crown Attorney, or his Assistants, must attend. Many of these inquests are relatively straightforward, but others are becoming controversial and complex. Several inquests last year were extremely lengthy, among them the inquests into the fire deaths at the Inn on the Park, Toronto, and the deaths of Lillian Hess and Howard Grossman, also in Toronto. The inquest into the deaths of seven junior Rangers in a fire near Geraldton was by far the most lengthy and controversial, and its effects are still continuing as charges are now before the courts.

2. Provincial Offences Act

Several Crown Attorneys and Assistant Crown Attorneys were heavily involved with assisting our Policy Branch in the planning and implementation of the Act. They also assisted in instructing personnel from this Ministry, other Ministries, members of the legal profession, and Law Enforcement Officers concerning the new

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Act. All Crown Attorneys have been involved as resource persons during the introductory period of the Act, advising police and other agencies where problems have occurred. In addition, the Crown Attorney conducts all appeals to the Provincial Court taken under The Provincial Offences Act. The office of the Director of Crown Attorneys continues to monitor the progress and problems in connection with the implementation of the Act.

3. New Judicial District of York Region

With the establishment of the new Judicial District of York Region, a new Crown Attorney's office has been opened in the new courthouse in Newmarket. At this time, the staff consists of the Crown Attorney, two Assistant Crown Attorneys and a secretary.

4. Workload and Case Backlog

Each year the Crown Attorneys' System prosecutes many complex cases involving conspiracy, fraud and white collar crime. Each year there are more and more of these cases. They are taking longer to process through the courts, and more are going to trial than in the past. There are varied reasons for this, but, society, in general, seems to be more litigious. The cases themselves may involve many hours of studying wiretap transcripts and evidence, and may involve conspiracy, loan sharking, extortion or fraud. One of the main contributory factors to the backlog is the need for additional Crown Attorneys and Judges to process these cases. Perhaps the most serious reason for the delay between the laying of a charge and the final disposition of a case is the fact that only a small percentage of the defence Bar appears for the various accused in Criminal cases. As a result, due to the other commitments of defence counsel, preliminary hearings, particularly, have to be heard piecemeal, a day at a time, with the result that in some cases the preliminary hearing can stretch out over a year or more. Greater judicial control over adjournments could assist with the problem.

5. Training and Development

Each year, the Ontario Crown Attorneys' Association conducts two meetings for Crown Attorneys and their Assistants. These take place in the Spring and in the Fall. The Fall meeting is held in Toronto, the Spring conference moves from place to place throughout the Province.

Professional staff of the Crown Law Office, also attend these conferences. The meetings themselves are educational in nature, with seminars, panel discussions and lectures on legal subjects of current interest. There is an average attendance of between 120 to 150 members of the Association at each conference.

The Ontario Crown Attorneys' Association also conducts a summer school. This is held at Massey College in the University of Toronto. There are three courses, one for first-year Assistant Crown Attorneys, one for second-year personnel, the third for more senior and experienced personnel. The courses are available to all members of the Crown Attorneys' Association, members of the Crown Law Office, lawyers in other Ministries, and Crown Counsel from other provinces, all by invitation. This year the course for all second-year personnel was devoted entirely to advocacy, with practical demonstrations, and much student participation. This year approximately 80 lawyers from the Association attended, plus several lawyers from other Ministries, and Crown Counsel from other provinces.

Representatives of the Crown Attorneys' System attended conventions held for Crown Counsel in Alberta, British Columbia and New Brunswick.

Five members of the support staff attended management training courses, run by our own Personnel Management Branch, and four others attended support staff seminars run by the Civil Service Commission.

6. Law Reform

In the past four or five years, there have been a considerable number of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry, both in writing and by attendance at various workshops. This response, which has been shared by the Crown Law Office and the Crown Attorneys' System, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending changes to the Criminal Code. Representatives of the Crown Attorneys' System also attended the Uniform Law Conference in Whitehorse, Yukon Territory.

7. Criminal Code Review

Senior officials of the Crown Attorneys' System are members of the Government Consultation

Group concerned with reviewing the Criminal Code. They meet regularly with the members of the Canadian Law Reform Commission. The group itself consists of members from each province, together with personnel from the federal government. This group was set up approximately one year ago to enable the Provincial governments to have input as to the direction the criminal law is taking. The group meets regularly for three-day sessions, wherein various parts of the Criminal Code receive in-depth study and analysis. Members of this Ministry will continue to form part of this group in future years.

8. Federal-Provincial Task Force on Evidence

In August, 1977, the Uniform Law Conference created a Federal-Provincial Task Force on the law of evidence for the purpose of creating a Uniform Evidence Act (civil and criminal) for Canada. Ontario was represented, as were a number of other provinces and the federal Justice Department, by legal officers from the civil and criminal sectors of the Attorney Generals' departments on a part-time basis. In August, 1979, at Saskatoon, the Conference agreed to create a special research group on a full-time basis to assist the part-time representatives in expediting completion of the Act and the final report. Ontario, Quebec, Alberta and Canada contributed a full-time member for this group. Ontario's representative was a senior Crown Attorney who served full-time for 14 months. During this period the Task Force made recommendations on 27 identified areas of the law of evidence. Approximately 38 areas were dealt with in the final report which produced a Uniform Evidence Act which has been examined by representative groups from all provinces and the federal government. The Act now is before Parliament.

9. Regional Crown Attorneys

In 1976 a regionalization program was instituted in which nine existing Crown Attorneys were designated as Regional Crown Attorneys. The Regional Crown Attorneys meet regularly in Toronto with the Director, the Deputy Director and, upon occasion, the Attorney General. The regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their region and the other Regional Crown Attorneys.

Regionalization also has regularized the relief system which is necessary to deal with shortages of manpower, and has strengthened the principle of a uniform administration of justice without undermining the contribution which local Crown Attorneys have made and will continue to make.

Regional Crown Attorneys also serve on sub-committees of the Regional Crown Attorneys' Council, formed to deal with urgent topics.

10. Provincial Prosecutors

There are 38 provincial prosecutors employed throughout the Province, one of whom is a woman. They are assigned to larger Crown Attorneys' offices, particularly those with heavy traffic caseloads. Provincial prosecutors are considered paraprofessionals; they are lay persons, usually with a background in law enforcement. They represent the Crown in Provincial Offences Court, regularly appearing opposite lawyers. They perform a vital and useful function in the Crown Attorneys' System. In several jurisdictions they represent the Crown on Provincial Offences Act appeals taken in the Provincial Court (Criminal Division).

11. French Language Services

French Language Services are being rapidly expanded by the Ministry to cover all areas of the province with a significant French speaking population. The Crown Attorneys' system has 33 bilingual lawyers, who are able to conduct trials in French. These lawyers are spread throughout the Crown Attorneys' system, and are assigned to attend in other jurisdictions to conduct trials in French, at the direction of the Director or Deputy Director. The Crown Attorneys' system has more bilingual professional staff than any other branch of the Ministry.

12 Affirmative Action

The Crown Attorneys' system is fully committed to the principles of Affirmative Action. At present there are 20 female Assistant Crown Attorneys. This is an increase of 600 per cent in the last five years. Female lawyers in the system have access to all training and development programs, and are encouraged to compete for more senior positions. Insofar as our support staff goes, an attempt is being made to upgrade female employees by on-the-job training.

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There were two such programs during the year, one where a secretary received three months provincial prosecutor training, the other where two secretaries were trained as office managers.

13. Highway Safety

The Crown Attorneys' system has a firm commitment to the promotion of highway safety. There is a strict policy concerning the prosecution of drinking drivers, with particular reference to second and subsequent offenders. During the Fall conference one complete day was set aside and devoted to highway safety. In addition, the Deputy Director is a member of the Ontario Traffic Safety Council, which meets monthly to discuss traffic safety matters of mutual interest to the police, the Ministry of Transportation and Communications, the Ministry of the Solicitor General, the Ontario Police Commission and the Ministry of the Attorney General.

14. METFORS

In the summer of 1977, the Metropolitan Toronto Forensic Service (METFORS) began its operations in two floors of the Queen Street Mental Hospital at 999 Queen Street West, Toronto. METFORS is governed by a Board consisting of the Chairman, who is the Crown Attorney for York; a representative from each of the Ministries of Health and Corrections and the Clark Institute, and the Director, who meet once a month to review the METFORS' operation.

Prior to the implementation of METFORS, notwithstanding the efforts of all concerned, substantial delays were experienced in obtaining Court-ordered mental assessments of accused persons. The Courts are interested in the mental stability of a newly arrested accused (if he appears to be suffering from some mental disorder), which might affect his attendance for trial if released on bail, or result in danger either to the public or himself if he were released from custody. The Court also is interested in his fitness to stand his eventual trial.

METFORS is able to provide the Courts within two or three days of the date of arrest with a thoroughly researched assessment which may guide the Courts in determining the often delicate question of bail and the other issues referred to earlier.

Crown Law Office — Criminal

Howard F. Morton, Q.C.,
Director

Harry G. Black,
Deputy Director

Composition

The Office is composed of 27 lawyers, all of whom specialize in criminal law. The heavy caseload that the office has experienced in recent years continued throughout the year, particularly in the areas of criminal appeals and special prosecutions.

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Office's major responsibility and encompass a large portion of our workload due to their increased complexity and the frequency of court sittings.

2. Special Prosecutions

In the past year, the Office has again continued to prosecute an increasing number of offences which have been referred to as organized crime prosecutions. As a result of a Tri-Force approach to police investigation in this area, charges have been laid against approximately 433 persons involved in organized criminal activities in the past four years. Among the charges are several involving complex conspiracies. Others involve breach of trust, bribery, extortion, kidnapping and counterfeiting, attempts to obstruct justice, theft, forgery, fraud and other criminal rackets. These prosecutions are as a result of intensive investigation into patterns of criminal activity that are planned and organized by persons acting in concert. Counsel in the Crown Law Office are consulted by and advise members of the Task Force at regular intervals in the course of every major investigation. Counsel in the Crown Law Office have participated in intensive courses dealing with the prosecution of organized crime at Cornell University.

In addition, the Office has continued to prosecute an increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and take a large amount of preparation and trial time. Liaison with the fraud squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. is an important

feature of the Office's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases.

The Ontario Securities Commission refer an increasing number of complex investigations involving allegations of fraud in the trading of securities and other unlawful conduct. Consumers protection legislation has also added to the burden of this Branch with special prosecutions under these statutes.

During the past year, counsel from this office have been involved in several additional and very complex investigations, such as those arising from the Re-Mor/Astra Trust collapse and the contempt of Court prosecutions against the hospital workers strike throughout Ontario.

3. Other Court Appearances

Court appearances by lawyers in the Office also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, contested motions and summary convictions appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. Counsel appear on applications for leave to appeal and appeals in the Supreme Court of Canada which are heard every two weeks. When such applications are granted, there are more lengthy and subsequent appearances which are required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, in spite of procedural adjustments to standardize court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Office is to create, within its personnel, a level of expertise in selected specialized areas of criminal law and procedure so as to be able to provide advice to others involved

in the administration of justice in the Province, who require legal opinions, often on an emergency, or, at least, short notice basis. To this end, the lawyers in the Office are constantly encouraged to involve themselves in private research and a variety of academic pursuits including the writing of text books and articles for publication and participating in continuing legal education programs and seminars. Several lawyers in the Office participate as instructors in The Law Society Continuing Education Programmes, in the Bar Admission Course, Criminal Law Section and the Canadian Bar Association Continuing Legal Education Programmes.

This advisory function also extends to the delivering of lectures and conducting of seminars at many Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

5. Committee Work

The participation of members of the Crown Law Office — Criminal on various interministerial Committees has increased during the past year. Members of our office have participated on Committees dealing with, *inter alia*, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy, psychiatry, remands in custody, victim justice, and the special Rules Committee for Provincial Offences. Counsel in the Crown Law Office also staffs the Criminal Justice Advice Service for the victims of Racially Motivated Criminal Offences.

6. Justice Policy

In the past year, the Crown Law Office expanded its involvement in the formulation of justice policy matters in the area of criminal law. The most prominent areas of our involvement are as follows:

(i) Drinking-Driving:

A mandate to design, legislate and implement a 24-hour licence suspension system in conjunction with a check stop operation which will be based upon the use of roadside screening device.

This endeavour is the most recent undertaking by the Crown Law Office in its continuing attempt to reduce the magnitude of the problem of drinking-driving in the Province of Ontario.

The Ministry of the Attorney General

(ii) Outstanding Fines:

This undertaking included the preparation of a policy submission on control and collection of outstanding fines, together with work on the Interministerial Committee on the Vehicle Registration System.

(iii) Diversion:

In the past year, counsel continued to spend considerable time in examining this concept in preparation of a Ministerial policy.

(iv) Human Rights and Race Relations:

Counsel in the Crown Law Office are engaged in work in this field on an ongoing basis. This involves:

- attendance at all meetings of the Ontario Human Rights Commission (two days per month);
- liaison with the Ontario Human Rights Commission on all matters of mutual concern;
- handling hate literature complaints;
- attending meetings of the Urban Alliance on Race Relations, which operates three pilot projects on which police officers and community members work together on a committee which deals with race relations matters;
- work on a sub committee of the U.A.R.R. which is preparing a booklet explaining police powers and duties in racial confrontation;
- design of a racial attack response system, which will be operated out of this Ministry to assist complainants in laying and prosecuting charges;
- co-ordination and preparation of the government's response to the Ubale Report on race discrimination against South Asians.

(v) Traffic Tribunals:

The Crown Law Office was responsible for the introduction of the traffic tribunal concept to the Borough of North York in 1974 and has maintained its supervisory role on a continuing basis, including the expansion of the concept to three other Metro Toronto Boroughs in 1977. In light of the success of the tribunal concept, and the recommendation of the Select Committee on Highway Safety that the concept be further

expanded, counsel in the Crown Law Office will continue to supervise its operation.

(vi) Response to Royal Commissions, etc.:

The Crown Law Office continues to draft Ministry policy, in response to various Royal Commissions. In past years, we have reviewed and responded to both the Shapiro Report of the Royal Commission on the Toronto Jail and Custodial Services and the Ombudsman's Report on Audit Correctional Institutes. Currently we are working on issues raised by the Krever Royal Commission and the McDonald Inquiry concerning Certain Activities of the Royal Canadian Mounted Police, and also on issues raised with respect to the "freedom of information" proposals.

7. Law Reform

In the past four or five years, the Federal Law Reform Commission has spawned a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry, both in writing and by attending several workshops throughout the year. This response which has been shared by the Crown Law Office – Criminal and the Crown Attorneys' system, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending several changes to the Criminal Code which have been acted on by the Federal Government.

8. Extradition

With the advent of white collar crime, international criminals, swift means of travel and the nearness of international borders, we are now finding that this office is called upon to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute this type of crime, it is now becoming necessary to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries. In co-operation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence. This area of responsibility has dramatically increased within the past year.

9. Other Responsibilities

This Office also handles various administrative matters in the criminal justice field, including

transfer of charges under the Criminal Code, transfer of probation orders, reciprocal enforcement of maintenance orders, the Criminal Records Act, the Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving the preparation of formal opinions, service on interdepartmental committees or the provisions of informal expert opinion, to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an "on call" basis constitutes an important part of the Office's workload.

CIVIL LITIGATION AND LEGAL ADVISORY SERVICES

Blenus Wright, Q.C.,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law, which is divided into the Constitutional Law and Civil Law Divisions, and the Common Legal Services which provides legal advice and legal services to all Ministries of Government. He deals with conflict of interest matters and is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, and the Law Foundation of Ontario.

Constitutional Law

John Cavarzan, Q.C.,
Director.

The Division consists of five lawyers, including the Director.

Annual Report of Operations for the Fiscal Year 1980-81

The regular functions of the Division include advising all ministries on constitutional questions, reviewing litigation in Ontario courts, in the Federal Court of Canada, and in the Supreme Court of Canada in which constitutional questions are raised, and engaging in such litigation where advisable.

Since the last annual report a series of significant events relating to the development of Canada's constitution have occurred in rapid succession. The Quebec Referendum was held on May 20, 1981, resulting in a victory for the pro-federalist forces. The Parliament and the Government of Canada committed themselves to accelerating the pace of the constitutional review process. The governments of Ontario and of several other provinces made public commitments to the people of Quebec to work towards a renewed federalism for Canada. Federal/provincial discussions held in June, July, and August led to an impasse at the First Ministers' Conference on the Constitution held at Ottawa on September 8-13, 1980.

On October 2, 1980, the federal government published a document entitled "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" setting forth its proposals for patriation of the constitution, for achieving an amending formula, for entrenching a national charter of rights and freedoms, and to recognize the principle of equalization in Canada. This step launched a heated and at times bitter national debate involving both political and legal challenges to the federal initiatives. On the political front there have been Parliamentary hearings both in Canada and in the United Kingdom resulting in reports. On the legal front reference cases were taken to the Courts of Appeal in Manitoba, Newfoundland, and Quebec, leading to a consolidated appeal heard by the Supreme Court of Canada on April 28 to May 4, 1981.

All of this intense activity has meant a heavy commitment of the resources of the Division to provide commentary and analysis and for preparation of the factum of the Attorney General of Ontario in the proceedings in the Supreme Court of Canada.

The Division has continued to maintain close liaison with the Ministry of Intergovernmental Affairs and with other interested ministries. Members of the Division attended the following federal/provincial conferences during the year:

Federal-Provincial Conference of First Ministers on the Constitution
Ottawa, Ontario
June 9, 1980

The Ministry of the Attorney General

Meeting of the Continuing Committee of Ministers
on the Constitution
Ottawa, Ontario
June 17, 1980

Meeting of the Continuing Committee of Ministers
on the Constitution
Montreal, Quebec
July 8-11, 1980

Federal-Provincial Continuing Committee of
Ministers on the Constitution
Toronto, Ontario
July 15-19, 1980

Meeting of the Continuing Committee of Ministers
on the Constitution
Vancouver, British Columbia
July 22-25, 1980

Meeting of the Continuing Committee of Ministers
on the Constitution
Ottawa, Ontario
August 26-29, 1980

First Ministers' Conference on the Constitution
Ottawa, Ontario
September 8-13, 1980

Provincial Attorneys General Conference
Victoria, British Columbia
November 6-7, 1980

Each of the above conferences required extensive
preparation of materials and follow-up work to
implement decisions taken and generally to
advance the goals of the conferences.

In addition, members of the Division participated
in the proceedings of three interministerial
committees primarily to provide advice on
constitutional issues.

With respect to the normal operations of the
Division, the Attorney General received 39 notices
of constitutional questions being raised in the
Ontario courts and 16 notices of constitutional
issues in cases before the Supreme Court of
Canada. These notices require analysis of the
questions involved and assessment as to the
advisability of the Attorney General of Ontario
being represented. In the result the Division
represented the Attorney General of Ontario in 21
cases. In addition, members of the Division
co-operated with members of the Civil Law
Division and the Crown Law Office (Criminal) in
questions arising in matters dealt with by them.

Finally, as was noted in last year's report, we are
now receiving notice of constitutional issues
arising in matters before the Federal Court of
Canada. An unusual feature of this year's statistics
is that we have received such notices in six cases
referred by other provincial administrations to
their respective Courts of Appeal.

Statistical Summary for Fiscal Year 1980-81

Litigation	80/81	(79/80)
Notices of constitutional issues given under section 36, Judicature Act	39	(28)
Notices of constitutional issues from Federal Court of Canada	6	
Notices of constitutional issues from Supreme Court of Canada	16	(19)
Notices of constitutional issues from other Provinces	6	
Constitutional Cases undertaken (argued or assistance provided)	37	(23)
Written Opinions and Advice (includes opinions requested on proposed federal and provincial legislation)	27	(47)
Many Informal Opinions given in meetings and consultations with other Ministries		
Provincial Attorneys General Conference	1	(4)
Continuing Committee of Ministers on the Constitution	7	
Participation in Interministerial Committees	3	(6)

Program of Operations for the Fiscal Year 1981-82

The Division does not initiate legislative or
administrative programs but simply renders legal
services on demand on behalf of the Government
of Ontario. The Division is now in its fifth
year of operations. It is expected that with the
increased expertise acquired by members of the

Division, services may be rendered with increasing efficiency in the future.

In the past year, there has been a decrease in the number of requests for opinions. The figures do not reflect the fact, however, that the questions investigated for such opinions are becoming increasingly complex; nor do they reflect the fact that a large number of opinions have been requested and given on the implications of the federal constitutional proposals referred to at the outset of this Report. Each such opinion requires a substantial time commitment on the part of Division counsel and support staff.

Crown Law Office – Civil Law

Julian Polika, Q.C.,
Director

The Branch consists of 21 lawyers, including the Director, and provides an independent legal service for all Ministries of the Government, especially in the area of civil litigation. While the total caseload continues to increase the number of lawyers has not been increased resulting in a continual increase in the individual workload borne by each Crown Law Officer.

Workload

There has been no abatement in the growth of the amount of work in the Branch. The total number of cases assigned was 2,416 as opposed to 2,216 for the previous year. As of March 31, 1981 there were 2,883 cases on hand as opposed to approximately 2,500 cases for the previous year. Approximately 28 percent of new cases handled were in the area of serious litigation, that is applications for judicial review, Supreme Court of Ontario actions or actions in other Courts such as the Federal Court of Canada. Approximately 30 per cent were motor vehicle actions in all levels of Court. Some 244 opinions were provided.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of Civil litigation and opinions, the work has increased and become more varied. In particular, there has been continued increase in litigious and advisory matters involving sheriffs and the Court system. The Branch has also been involved in a great number of interpleader applications.

Serving other Ministries

Work done for the Ministries continues to increase and involves appearances on behalf of the Government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various boards and tribunals and conducted provincial prosecutions on behalf of a number of Ministries. For those Ministries and other governmental bodies who are not served by the Common Legal Services program the Branch provided a complete legal service.

The Branch has also been involved in labour/management matters. Counsel are appearing on grievances on a regular basis and in the consequential court proceedings.

Law Reform

Over the past few years, there have been a considerable volume of reports, working papers and proposals dealing with the reform of provincial and federal law. These proposals have required response from the Ministry. The Branch has shared in the response by writing and participating in programs and seminars throughout the year.

The Branch has a permanent delegate on the federal-provincial task force developing uniform Rules of Evidence and has carried its share in the preparation of background papers for discussion by the task force. The Branch also is participating in the review of the Williston Report on the Rules of Practice.

The enactment of The Provincial Offences Act, 1979, has required the provision of educational programs by the Ministry for those individuals involved in that aspect of the justice system. Counsel from the Branch has assisted in the conduct of such programs.

Affirmative Action

The Branch has been and is fully committed to the principles of Affirmative Action not only as to sex but also in respect of individuals with physical impairments. Presently there are four female

The Ministry of the Attorney General

Crown Law Officers or 19 per cent of the legal complement. It is anticipated this will increase to five — a 25 per cent increase in the next fiscal year.

Particular Services Rendered

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and, by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1980/81, 298 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 133 of these applications an increase of 20 per cent over the previous fiscal year.

2. Claims for and Against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents and trademarks.

Notable of the Claims brought against the Crown are those arising out of the Mississauga Railway Disaster and the collapse of Re-Mor Investment Management Corporation and Astra Trust Company.

In the fiscal year 1980/81 the Branch opened 799 such files, excluding claims pertaining to motor vehicle accidents, mechanics' liens and expropriation matters an increase of 71 per cent over the prior fiscal year.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the Government in respect of motor vehicle accident claims where the Government or an employee of the Government has a claim against an individual. Claims against the Government where the Government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims

Director; if settlement is not possible an action is brought in the appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1980/81 747 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the exception that a lien could not be attached to property of the Crown. In the fiscal year 1980/81 81 such actions were handled by the Branch.

5. Expropriations

Over the last three years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportation and Communications and the Ministry of Government Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the Courts. In the fiscal year 1980/81 44 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various Boards and Tribunals, for example, the Game and Fish Hearing Board, the Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code.

In the fiscal year 1980/81 141 cases were handled in this particular area.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the Courts in divorce actions and other related matrimonial causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The Courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present, the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year 1980/81 137 Queen's

Proctor matters were reviewed and counsel within the office actively dealt with 34 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or when the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of the Ministry of Natural Resources under The Game and Fish Act and related statutes. In the fiscal year 1980/81 11 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions

The Branch, in response to specific inquiries from the Ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation, or as a result of litigation. In the fiscal year 1980/81 244 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the Ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Council's office to see that those changes are carried out.

On a day-to-day basis, legal officers answer public inquiries pertaining to statutes administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the Ministries and, in particular, to the Ministry of Industry and Tourism, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

12. Petitions to Cabinet

Counsel in the Branch are responsible for preparing petitions to Cabinet originating primarily because of statutory provisions in The Ontario Municipal Board Act and The Ontario Highway Transport Board Act. In the

fiscal year 1980/81 156 such matters were received.

Statistical Review of 1980/81 Workload

The charts set out below show that 2,416 files were assigned in the fiscal year ending March 31, 1981, an increase of 9.02 per cent over the preceding fiscal year. The present level of intake is 201 files per month as compared to 184.7 for the previous fiscal year.

The Director reviewed 437 matters pertaining to applications for judicial review, Queen's Proctor matters and habeas corpus applications and it was decided after consultation with the appropriate Ministry, where applicable, not to intervene in 270 of those cases.

At the close of the fiscal year on March 31, 1981, counsel in the Branch had on hand 2,883 files. These ongoing files reflect matters which take time to process and finalize and in particular 39 per cent thereof pertain to serious and important litigious matters.

Forecast of Operational Activities

The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1981/82 the Branch will handle some 2,700 new cases in addition to the carryover of 2,883 cases. It is not possible to determine with any accuracy the actual increase as Branch work is determined by unpredictable factors.

The 2,883 on-hand files reflect an increase of 15 per cent over the previous year and indicate a year end caseload of 137 per lawyer. If present rates of processing are maintained at March 31, 1982, there will be 3,315 files on hand or 150 for each lawyer. This will be a substantial increase in the caseload of each lawyer in the Branch.

The Branch will be taking on the additional responsibility for the Reciprocity Office presently responsible for the enforcement of foreign maintenance orders, the service of foreign court documents and related matters. The activity in this area is expected to increase dramatically with the implementation of the Hague Convention pertaining to child custody matters.

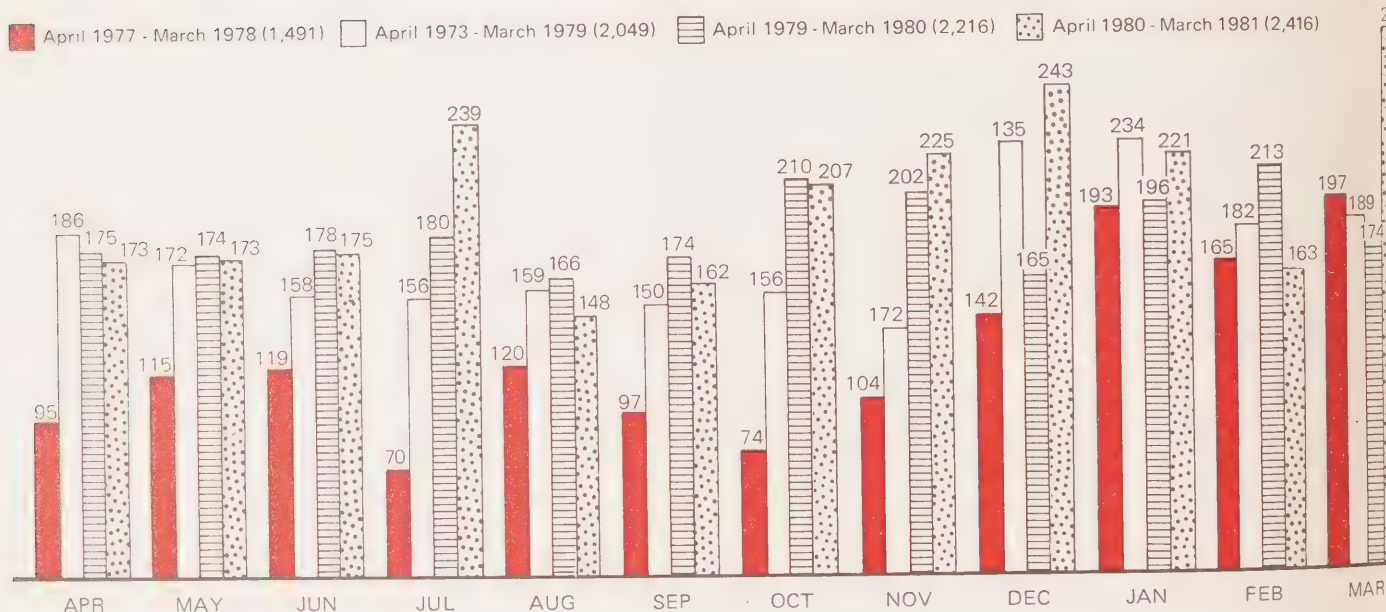
The Ministry of the Attorney General

French Language Instruction

In the fiscal year 1980/81 lawyers on staff were on French language courses. This program will continue through 1981/82. The program is in keeping with the introduction of the French language into the Court process in Ontario.

Crown Law Office - Civil Law

NUMBER OF CASES ASSIGNED BY MONTH



Comparison of Cases Assigned by Year

Year Ending	Total Number of Cases Assigned	% Increase over previous Year
March 31st, 1978	1491	—
March 31st, 1979	2049	37.42
March 31st, 1980	2216	8.15
March 31st, 1981	2416	9.02

Common Legal Services

J.B. Gleason, Q.C.,
Director

Legal Services to Ministries

The Common Legal Services program involves the provision of legal services to all Ontario Government Ministries. The Director is responsible for the development of a unified approach to legal opinions, evaluation of legal services provided, and career development.

There are 127 lawyers in the 21 legal branches located in the various Ministries, varying in size up to 17 lawyers, all of whom are employed by Common Legal Services on behalf of the Attorney General. In total the Common Legal Services has 249 professional, secretarial, clerical and para-legal persons in its employ.

Common Legal Services is also responsible for retaining private sector counsel where such services are required by the Government.

Professional Development

Professional development of lawyers is a continuing objective of Common Legal Services. Attendance at educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society, provides opportunities for lawyers to keep up with the changes in the law. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are on the increase, creating more career opportunities for government lawyers.

Liaison with Boards, Official Guardian, Public Trustee

The Director has a liaison responsibility between the Ministry and the Assessment Review Court, the Land Compensation Board, the Ontario Municipal Board, the Board of Negotiation and the Criminal Injuries Compensation Board, the Official Guardian and the Public Trustee.

Chief Inquiry Officer

The Director spends considerable time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act. This involves the retainer of and the liaison with inquiry officers throughout the Province and a large area of

communications with the public in relation to The Expropriations Act generally.

Office of The Official Guardian

L.W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of The Judicature Act and Section 20 of The Child Welfare Act.

General

The office has a regular staff of 67 and seven law students. It also uses the services of lawyers who act as agents throughout the Province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian participated in a Court Conciliation Project designated to preserve the sanctity of family life from improvident dissolution of marriages to the detriment of families in general and children in particular.

The Official Guardian was a member of the Civil Revision Committee which revised the Rules of Practice of the Supreme Court of Ontario.

The Official Guardian provides independent representation for children in matters arising out of the Unified Family Court Project in Hamilton as well as representation for unrepresented mentally incompetent persons who refuse medical treatment under the Mental Incompetency Act. He was also an ex-officio member of the Interministerial Committee on consent to medical treatment.

Under Section 20 of The Child Welfare Act, which was implemented on February 1, 1980, the Official Guardian provides independent legal representation for children in protection cases in the Family Court. This program includes the utilization of about 600 members of the private Bar who provide this legal service under the supervision of this office in addition to the legal services provided by members of the Branch legal staff.

The Ministry of the Attorney General

The office conducted area training sessions for panel members. These sessions covered substantive and procedural law. The training staff included not only members of the Official Guardian's legal and social work staff, but also representatives of the other social service and behavioural science disciplines. These courses have been accredited by the Law Society in the Family Law and Divorce preferred areas of practice.

The Branch continues to process applications on behalf of minors to the Injuries Compensation Board, with particular emphasis on the implications of child abuse.

The Official Guardian is also required by The Child Welfare Act to determine what action should be taken against child abusers.

Increasing Demand

The Official Guardian contributes to developments in family and child law and attempts to meet new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate protection of the personal rights of minors in addition to the traditional protection of their propriety interests. Judges are now appointing the Official Guardian ad litem (counsel) to represent children in custody and access proceedings.

Another major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian provides legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placements of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

Report of Operations

The statistical data for the fiscal year 1980-81 and for the calendar years 1977 through 1980 is as follows:

Surrogate Court Audits	1977	594	(Decrease in 1977)	46
	1978	605	(Increase in 1978)	11
	1979	571	(Decrease in 1979)	34
	1980	510	(Decrease in 1980)	61
Fiscal Year 1980/81 — 510				
Matrimonial Causes New Matters	1977	13,423	(Increase in 1977)	45
	1978	13,733	(Increase in 1978)	310
	1979	14,333	(Increase in 1979)	600
	1980	13,348	(Decrease in 1980)	985
Fiscal Year 1980/81 — 13,630				
Number of Payments into Court	1977	285	(Increase in 1977)	53
	1978	274	(Decrease in 1978)	11
	1979	287	(Increase in 1979)	13
	1980	254	(Decrease in 1980)	33
Fiscal Year 1980-81 — 245				
New Fiats authorizing payments out of Court for maintenance and other purposes	1977	458	(Increase in 1977)	41
	1978	464	(Increase in 1978)	6
	1979	475	(Increase in 1979)	11
	1980	607	(Increase in 1980)	132
Fiscal Year 1980/81 — 615				

Number of Payments out of Court pursuant to existing Fiats	1977	1,883	(Increase in 1977)	96
	1978	1,864	(Decrease in 1978)	19
	1979	1,856	(Decrease in 1979)	8
	1980	1,944	(Increase in 1980)	88
Fiscal Year 1980/81 — 1,986				

General Counsel Work in Matters arising out of: Variety of Statutes effecting the legal civil rights of children in estate and other matters	1977	2,010	(Increase in 1977)	685
	1978	1,330	(Decrease in 1978)	680
	1979	1,299	(Decrease in 1979)	31
	1980	1,445	(Increase in 1980)	146
Fiscal Year 1980/81 — 1,479				

Child Representation in Custody and Access Matters	1977	127	(Increase in 1977)	48
	1978	172	(Increase in 1978)	45
	1979	200	(Increase in 1979)	28
	1980	300	(Increase in 1980)	100
Fiscal Year 1980/81 — 300				

Child Representation in Child Welfare Matters	1979	556		
	1980	2,260	(Increase in 1980)	1,704
Fiscal Year 1980/81 — 2,700				

New Miscellaneous Matters:

Numerous attendances, telephone inquiries and extensive correspondence both with solicitors and the public about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the Years	1977	18,780
	1978	19,642
	1979	19,577
	1980	20,668

Fiscal Year 1980/81 — 21,465

The Ministry of the Attorney General

Forecast of Operational Activities

The Office of the Official Guardian will continue to render legal services on behalf of persons under a legal disability consisting mainly of minors and mental incompetents. It will also keep abreast of and contribute to developments in family and child law and exercise its specific responsibility to provide independent representation in relation to the Unified Family Court Project in Hamilton. A Branch activity will continue to be the implementation of Child Representation in Part II applications under The Child Welfare Act. This program will involve not only an accelerated delivery of legal services in these matters by staff counsel but also the development, administering, training and monitoring panels composed of some 600 solicitors from the private Bar who provide this service throughout the Province.

Representation of children in custody issues will substantially increase.

Forecast of the Program and Activities for the Fiscal Year 1981-82 and the Three Succeeding Years:

Surrogate Court	1981-82	600
	1982-83	600
	1983-84	600
	1984-85	600
Matrimonial Causes New Matters	1981-82	14,500
	1982-83	15,000
	1983-84	15,500
	1984-85	16,000
Payments into Court	1981-82	300
	1982-83	300
	1983-84	300
	1984-85	300
New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes	1981-82	650
	1982-83	700
	1983-84	750
	1984-85	800
General Counsel Work	1981-82	1,500
	1982-83	1,600
	1983-84	1,700
	1984-85	1,800

Child Representation in Custody and Access Matters

1981-82	350
1982-83	400
1983-84	500
1984-85	600

Child Welfare Counsel Work (included under General Counsel Work in 1978/79)

1981-82	3,500
1982-83	4,000
1983-84	4,500
1984-85	5,000

Payments out of Court Pursuant to Existing Fiats

1981-82	2,100
1982-83	2,200
1983-84	2,300
1984-85	2,400

Public Trustee

A.J. McComiskey, Q.C.,
Public Trustee

Financial Operations

At the end of this report are the financial statements for the past fiscal year. You will see from these statements that the Public Trustee now manages assets in excess of \$220 million. You will also see that we have been able to pay all of our expenses and produce a profit of \$2.8 million. Compensation as executor, administrator or committee and legal fees earned normally pay approximately 70 per cent of the operating costs of the office. The balance of the expenses and any profit earned flows from two sources:

1. interest on surplus or other accounts held by the Public Trustee on which there is either no interest or reduced interest payable to the ultimate recipients of the funds, and
2. the receipt of accrued compensation which we are gradually bringing into current status since we have embarked on data processing.

It is anticipated that the receipt of accrued compensation will level out over the next five years, so that this extraordinary source of revenue will gradually diminish.

During the past year the rapid increase in interest rates is of great concern to everybody who has anything to do with investments. The public has

almost daily had their attention drawn by the media to the interest crisis. Hindsight experts abound. Unfortunately where money has been invested years ago in sound, secure bonds with reasonable interest rates, the yield from these securities in the present market is no longer attractive. Problems exist in both law and economics in rolling these securities over into current high interest investments. We have been endeavouring to gain the best return possible for estates under the management of the Public Trustee both by investing increasing amounts directly on behalf of the individual estate and by taking advantage of the short term high interest money market.

General Operations

To deal only with the finances of this office fails to give any real view of the scope of the services performed by the office of the Public Trustee. At the present time the Public Trustee as committee, appointee or acting under a Power of Attorney, manages the estates of 20,000 persons who are incapable of managing their own affairs. Currently the Public Trustee is acting as administrator or executor of 1,200 estates of deceased persons. The Public Trustee is supervising 33,000 files in which a charitable interest is involved. The office of the Public Trustee receives an average of 1,000 letters a day and sends out 500 letters a day. All of this is done with a staff of 151 of whom 12 are lawyers.

Fortunately the introduction of data processing has enabled us to fulfill increasing responsibilities with no increase in staff. At the same time the data processing system has brought to our attention administrative details that were overlooked in the preceding 60 years of operation of the office of the Public Trustee so that we are involved in a continuous process of reviewing, consolidating and updating our records.

Duties

The Public Trustee has four main responsibilities, namely:

1. acting as committee in the administration of estates of persons incapable of managing their own affairs;

2. acting as an administrator or executor of estates of deceased persons mainly under the provisions of The Crown Administration of Estates Act. Under that Act the Public Trustee administers the estates of persons who die in Ontario without a will and without next-of-kin. Beneficiaries may have to be located and ascertained around the world;

3. a general supervisory role with respect to charities under The Charitable Gifts Act, The Charities Accounting Act and The Mortmain and Charitable Uses Act;

4. under The Business Corporations Act the Public Trustee may enter into agreements with corporations about to be dissolved under which the Public Trustee accepts and administers funds belonging to shareholders that cannot be located.

In addition, the Public Trustee supervises the collection of assets for which there is no known owner and relays the proceeds of these assets to the Crown under The Escheats Act but subject to the return of assets to those who have a good moral or legal claim.

Changes in the treatment of incompetents, the age of the population, economic conditions and social environment bring about new or different demands for service from the Public Trustee, and after more than 60 years of operation it is necessary to constantly review the procedure and statutes under which the Public Trustee acts. A Committee under the chairmanship of the Deputy Attorney General, H.A. Leal, Q.C., has been at work throughout the year reviewing all facets of the operation of the office of the Public Trustee with a view to introducing such changes as are required to enable the Public Trustee to meet the demands of the present decade.

The Ministry of the Attorney General

Balance Sheet as at March 31, 1981

	1981	1980
Assets		
Estates and Trusts		
Cash in bank	\$ 124,189	\$ 89,514
Funds invested (schedule A) (note 1a)	87,745,770	90,140,000
Bonds (note 1b)	67,629,785	51,836,275
Stocks (note 1b)	5,564,844	5,375,292
Mortgages receivable	3,638,494	2,648,425
Real estate (note 1c)	26,525,308	27,055,523
Pensions and life insurance (notes 1d, 1e)	32,789,966	27,557,055
Miscellaneous	3,634,873	3,386,490
	<u>227,653,229</u>	<u>208,088,574</u>
Deduct mortgages payable	893,752	1,099,170
	<u>226,759,477</u>	<u>206,989,404</u>
Administration Fund Account		
Cash in bank	58,660	44,073
Funds invested (schedule A) (note 1a)	14,980,000	12,230,000
	<u>15,038,660</u>	<u>12,274,073</u>
	<u>\$241,798,137</u>	<u>\$219,263,477</u>
Liabilities		
Estates and Trusts		
Patients' estates	\$172,506,133	\$157,596,265
Crown estates	15,831,188	14,162,004
Deceased persons' estates	3,801,484	3,562,848
Probable escheats	8,250,500	8,693,677
Special trusts and charities	15,033,785	13,002,506
Corporate estates	5,243,075	4,164,751
Crown companies	363,293	321,604
Indian trusts	183,907	178,101
Unclaimed balances	371,950	357,744
Cemetery trusts	5,111,431	4,883,075
Child welfare trusts	62,731	66,829
	<u>226,759,477</u>	<u>206,989,404</u>
Administration Fund Account		
Current liabilities	244,476	208,280
Assurance fund	200,000	200,000
Surplus	14,594,184	11,865,793
	<u>15,038,660</u>	<u>12,274,073</u>
	<u>\$241,798,137</u>	<u>\$219,263,477</u>

Statement of Revenue and Expenditures Year Ended March 31, 1981

	1981	1980
Revenue		
Fees: Patients' estates	\$ 2,063,684	\$ 1,499,881
Crown estates (note 2)	501,367	737,033
Special trusts (note 2)	179,909	135,202
Corporate estates	5,590	7,866
Cemetery trusts	21,512	18,405
Charities	34,079	52,537
	<u>2,806,141</u>	<u>2,450,924</u>
Bank interest	15,771	12,074
Income from funds invested, net (schedule B)	<u>3,936,538</u>	<u>3,932,659</u>
	6,758,450	6,395,657
Deduct debit balances written off	733	986
	<u>6,757,717</u>	<u>6,394,671</u>
 Expenditures		
Salaries	2,866,138	2,575,781
Employee benefits	431,535	385,584
Transportation and communication	96,489	82,958
Services	520,318	482,903
Supplies and equipment	114,846	87,806
	<u>4,029,326</u>	<u>3,615,032</u>
 Excess of Revenue over Expenditures	<u><u>\$ 2,728,391</u></u>	<u><u>\$ 2,779,639</u></u>

Statement of Surplus Year Ended March 31, 1981

	1981	1980
Balance at Beginning of Year	\$11,865,793	\$ 9,086,154
Excess of revenue over expenditures	<u>2,728,391</u>	<u>2,779,639</u>
 Balance at End of Year	<u><u>\$14,594,184</u></u>	<u><u>\$11,865,793</u></u>

The Ministry of the Attorney General

Details of Funds Invested as at March 31, 1981

	1981	Schedule A 1980
Bank term deposits	\$ 11,818,690	\$ 11,450,000
Bonds (schedule C)	88,625,520	88,614,278
Accrued interest	2,190,678	2,205,939
Cash in bank	90,882	99,783
	<u>\$102,725,770</u>	<u>\$102,370,000</u>
Allocated as follows:		
Estates and trusts	\$ 87,745,770	\$ 90,140,000
Administration fund account	14,980,000	12,230,000
	<u>\$102,725,770</u>	<u>\$102,370,000</u>

Income from Funds Invested Year Ended March 31, 1981

	1981	Schedule B 1980
Interest earned on investments	\$ 9,583,453	\$ 9,170,000
Interest earned on bank accounts	221,782	132,539
	<u>9,805,235</u>	<u>9,302,539</u>
Deduct interest allowed	5,868,697	5,369,880
Income from funds invested, net	<u>\$ 3,936,538</u>	<u>\$ 3,932,659</u>

Details of Bonds as at March 31, 1981

	Par value	Schedule C Amortized cost
Province of Ontario	\$ 13,450,000	\$ 13,434,232
Ontario Hydro	75,687,000	75,191,288
	<u>\$ 89,137,000</u>	<u>\$ 88,625,520</u>

COURTS ADMINISTRATION DIVISION

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

M.S. Fitzpatrick,
Inspector of Legal Offices and
Deputy Director of Courts Administration.

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the administration of the courts in Ontario including:

- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and courts registrars, Criminal and Family Court administrators, Small Claims clerks and bailiffs;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- regulating the appointment of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

Supreme, County and District, and Surrogate Court Offices

R.W. Schurman,
Director

B.C. Pitkin,
Deputy Director

The office of the director provides administrative direction for the Supreme, County and District, and Surrogate Courts, and Sheriffs' offices. In liaison with a regional co-ordinators' council, the office develops and implements Ministry policy relating to procedures and methods, and provides for the day-to-day delivery of the program.

The trend towards more complicated and time-consuming litigation, and the requirement for the physical execution of more court orders by the Sheriff has continued in this fiscal year. The actual sitting time of the courts increased by 5 per cent this fiscal year, while disposition of cases remained relatively constant. These statistics must be viewed while remembering that a successful pre-trial system has been introduced, that provides for many dispositions without the use of court time, and that despite the pre-trial system sitting time has still increased. Sheriffs have noted that not only are there more executions being filed in their offices, but that the proportion of executions being filed that also include instructions to levy is increasing substantially. This increase in workload is being compounded by increases in the number of evictions and orders under The Family Law Reform Act that must be physically executed.

In June of 1980 the Judicial District of York Region was created. York Region is the first additional judicial district/county to be created in the last 100 years. It forms the northern portion of the old Judicial District of York and is bounded by the northern boundary of Metropolitan Toronto in the south. Some difficulties were initially created as concurrent jurisdiction existed between the Sheriffs of York and York Region. As of October 14, 1980, however, York Region has functioned independently from York, thus eliminating many of the problems.

Court Reporting Services

Tom Moran,
Manager

The manager is responsible for providing administrative control and direction of all reporting services to all court levels in the Province, including Special Examinations and certain Boards and Commissions. The Manager is also responsible for the development and implementation of approved policies, the establishment of reporting standards, the development of training programs and the provision of direction and support to Special Examiners in the private sector in Toronto, Hamilton, St. Catharines, Windsor, Ottawa and Timmins.

Court reporters are, at present, regulated through requirements specified in a number of statutes. This situation often creates confusion. During the

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last year, therefore, research has been conducted to gather material to be used in drafting a proposed statute governing court reporters.

The prime function of the manager is to provide competent court reporting services throughout the Province. To accomplish this, the Ministry has concentrated on three endeavours this fiscal year. A Manual of Court Reporting has been developed with the co-operation of the Chartered Shorthand Reporters Association. The Association also co-operated with the Ministry in establishing a certified program for reporters using machine shorthand. Finally, the Ministry has developed a series of workshop/seminars that will be given in key locations throughout the Province.

The increase in the number of trials being conducted in both English and French has resulted in the Ministry increasing the number of reporters who are capable of reporting in both French and English. In many instances this has resulted in training being provided by the Ministry to candidates possessing the necessary language skills but lacking court reporting experience. This training effort has allowed the Ministry to obtain a capability of providing bilingual reporting services throughout the Province.

Provincial Court Offices

A.K. Mackay,
Director

D.J. Pringle,
Deputy Director

The administrative staff of the Provincial Court Offices provide clerical, stenographic, court support, and court reporting services for the Provincial Courts, both Criminal and Family Divisions, and the Provincial Offences Courts (combined with criminal division courts). The staff also provide accounting, recruitment, training and other services required by the Ministry.

Government constraints over the past several years have increased the pressure on the court managers and has required a great deal of managerial skills to cope with increasing workload with fixed manpower resources.

Family Law Reform Act and Legislation Pertaining to Children

When the Family Law Reform Act was introduced three years ago, there were some administrative

problems. However, the expertise gained during the past several years has allowed the staff of the Family Court to overcome various problems and this legislation is being handled smoothly by the office staff. In addition, amendments to the Child Welfare Act have created new administrative challenges for the Court Administrators. The above changes were effectively handled while absorbing a 5 per cent increase in matters being received in the Family Court.

Family Court Office Standards

During the past year, Family Court offices throughout the province have benefited from the introduction of standard office procedures and systems. The new systems commenced January 1, 1980, and the review of the initial program is now underway which will lead to some updating of the initial procedure manual.

Provincial Offences Act

The impact of the new Provincial Offences Act, which was implemented on March 31, 1980, was carefully monitored. The new Act provides a wider range of options to defendants on minor matters and eliminates the majority of obsentia trials, thereby reducing court time for Justices of the Peace and police departments. The in-depth training program has been proven with minimal problems associated with the extensive changes in the procedures covering the prosecution of the provincial statutes and municipal by-laws (excluding parking).

New Court Systems and Methods

As reported last year, a mini-computer system has been implemented in the Oshawa Criminal Division office and has proven to be most successful. The system has been reviewed and found to be effective with respect to the reduction of administrative staff within the court, the ability to absorb increasing workload, without a corresponding increase in staff, increasing the level of service to the public, judiciary, and the bar, and improved controls over documents and cash. A brief has been presented to Management Board, to implement the same system in the seven major offices (by volume of cases) outside of the Metropolitan Toronto Courts, namely Hamilton, Brampton, Ottawa, Newmarket, London, Kitchener, and Windsor. A similar type of program is being investigated for use in Metropolitan

Toronto, to replace the present cyclops system which is outdated.

A further study has been initiated in the Metropolitan Toronto Court system in an attempt to alleviate the present backlog problem associated with parking infraction bylaw cases. The backlog of these cases continues to grow, while backlog of all other cases has improved in many areas of the province to the optimum from a practical point of view.

Training and Staff Development

The Provincial Courts have continued their participation in the Ministry's Management Development Program. The continuing development of basic management skills, effective communications, organization and managerial behaviour, performance problems and assertive management is one of the reasons many of the new programs have been implemented so successfully. This training is provided in co-operation with the Ministry's Personnel Management Branch and Sheridan College of Applied Arts and Technology. The program ensures a continuing managerial development program for our managers and staff, commencing at Phase I and moving through in stages to Phase VI.

Court Administrators have completed their fifth year in this program, their Deputy Assistants and key supervising staff their fourth year, with other employees continuing to enter into the program on a "career development" basis. New supervisory staff enter the program and are accelerated to achieve a "training level" with their peers as quickly as possible. A standard approach to bookkeeping procedures for the Provincial Court Offices has been developed and implemented with the assistance of three experienced staff members from the various courts, the co-operation of Personnel Management Branch and Audit Branch. This "workshop for bookkeepers" has been attended by individuals assigned as bookkeepers, however, subsequent sessions will allow those persons seeking a career change to attend. Similarity with bookkeeping functions of a Provincial Court Office is a requirement. Staffs must deal with thousands of persons who lack an understanding of the court process. A Customer Relations Workshop has been developed. It provides insight and techniques in communicating with people who may be under

stress, etc. Initial attendance came from Personnel from the Metropolitan Toronto Criminal Court offices. Reaction has been very positive, resulting in a better understanding of the human relations involved. Further attendance is scheduled in the incoming years, to ensure continuing high level of clients service is maintained, and the seminar extended to staffs outside of Toronto.

In addition to the above, a number of employees participated in courses offered by the Civil Service Commission. In the areas of management development, problem solving and decision making, communication skills and professional skills. In addition, numerous staff members were furnished tuition assistance for courses in various colleges and universities.

Staffing Standards

The necessary criteria for developing staffing standards for all of the Provincial Court Offices and courtroom support staff were developed by the Ministry in co-operation with Management Board staff. Staffing standards for the Criminal Court offices were agreed upon and established. The Family Court and Combined Family and Criminal Court office standards have been deferred for further view, but will be established by the next fiscal year.

Small Claims Courts

Ron McFarland,
Director

The Director of Small Claims Courts provides administrative direction to 121 Small Claims Courts and four Divisional Offices of the Provincial Court (Civil Division) throughout the Province. The Director is responsible for the planning and preparation on the needs of the courts, both Judicial and Administrative and for filling staff vacancies.

Activity

Under "New Initiatives" in the Annual Report for 1979-80 two proposals were under consideration:

1. The introduction of a Provincial Court (Civil Division) as a Special Project Court for the Municipality of Metropolitan Toronto.
2. The designation of a number of courts throughout the Province as Bilingual Courts.

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On June 30th, 1980, the legislation was proclaimed in force to set up the Provincial Court (Civil Division). The major features were to increase the monetary jurisdiction from \$1,000 to \$3,000, and the introduction of simplified rules to resolve minor monetary disputes.

During the first year of operation, the number of claims filed in the court offices for amounts over \$1,000 exceeded our estimates by some 21 per cent (estimated number of claims 10,000, actual 12,099). It is expected that there will be an increase in claims filed in the next year.

On July 1, 1980, 23 Small Claims Courts were

designated as Bilingual Courts throughout the Province, and the following note is included on the Summons Form:

"Vous avez le droit de demander en vertu l'article 127(4) de la loi sur l'organisation judiciaire de l'Ontario, pour un procès devant un juge bilingue. Vous devez indiquer cette demande au bureau de la cour au moment où vous déposez votre avis de contestation".

The impact of this new program has been rather minimal in the first nine months. The chart which follows sets out the number of bilingual trials held during this period.

Designated County/District	Small Claims Court	Number of Trials
Algoma	4 Wawa	1
	7-8 Elliot Lake	1
Cochrane	1 Cochrane	1
	2 Timmins	1 settled before trial
	4 Kapuskasing	Nil
	6 Iroquois Falls	Nil
Essex	7 Windsor	2
Niagara South	1 Welland	1
	4 Niagara Falls	Nil
Nipissing	1 Sturgeon Falls	
	3 North Bay	Nil
Ottawa-Carleton	7 Ottawa	19
Prescott-Russell	7 Hawkesbury	*
	10 Rockland	*
Stormont, Dundas & Glengarry	2 Alexandria	3
	3 Cornwall	1
Sudbury	1 Sudbury	5
	3 Espanola	Nil
	5 Chapleau	Nil
Timiskaming	1 Haileybury	Nil
	3 Englehart	Nil
	4 Kirkland Lake	Nil

* In these Counties we have full bilingual resources and therefore trials are conducted in either French or English.

It is expected that the number of bilingual or full French trials will increase as the public becomes more aware of the French language services available to them.

New Initiatives

Training and Staff Development

The Ministry is to commence to introduce standardization of Administrative and Judicial process throughout the Province. Several officials from different locations in the Province will be used as an advisory group and

from that group regional seminars will be developed under the guidance of the Director.

The manuals of operations will be up-dated, new or revised forms will be developed for introduction in the fall of 1981.

New Court Systems and Methods

At present the Ministry is studying the viability of introduction of mini computers in the Small Claims Court offices and the appointment of a Trial Co-ordinator for the Provincial Court (Civil Division). It is hoped that a Trial Co-ordinator will be instrumental in ensuring all disputed matters will be finalized within 45 calendar days.

Small Claims Court Judges

Number of full-time Judges	9
Judicial District of Hamilton-Wentworth	1
Judicial District of Niagara North and South	1
Judicial District of Ottawa	1
Judicial District of York	6
	<u>9</u>

Courts and Office Accommodation Planning

W. M. Thomson,
Administrator

This branch provides general administration of all Court and office accommodation throughout the Province, as well as the liaison with the Ministry of Government Services in all alterations, new leases and capital projects required by the Courts.

Projects Completed

In Sudbury an additional courtroom, Court Reporters Office, J.P.'s Office and Judge's Office were provided in the basement of the County Court House for the Provincial Court (Criminal Division). An additional Jury Courtroom, Witness Waiting Area and Interview Rooms were also provided on the second floor for the District and County Court.

Space previously occupied by the Ministry of Agriculture and Food in the Milton County Court House was renovated to provide additional courtroom space for the courts.

Three projects were completed in the York County Court House, Toronto. Additional Judges' offices and expansion space for the Crown Attorney's office was provided by relocating some Sheriff's and Juror's offices; two Juror's lounges were relocated in order to provide two additional jury courtrooms and jury deliberation rooms.

The Kitchener Small Claims Court was reorganized in order to provide more efficient utilization of the County Court space.

New District Court facilities consisting of two courtrooms, Sheriff's Office, Judges' offices, Interview Rooms, Bar Association facilities and prisoner holding areas were provided in Timmins.

Crown Attorney's facilities were provided in the Brockville County Court House by converting unused third floor space into offices.

In the Brant County Court House, Brantford, the second floor County Council Chambers were re-designed to accommodate a jury courtroom, jury retiring room and washroom facilities. On the ground floor a Motions Room was converted into interview spaces and a Judge's Office.

The Welland Provincial Court (Family Division) was relocated to a new, one courtroom facility at 3 Cross Street.

Retail premises on Queen Street, Sault Ste. Marie, were converted into a two courtroom Provincial Court (Family Division) facility.

New, one-courtroom facilities were provided in Elliot Lake to accommodate the Provincial Courts (Criminal and Family Divisions) and the Small Claims Court.

An additional courtroom and support facilities was completed for the Provincial Court (Family Division) at 160 Silverhill Drive, Etobicoke.

Five additional Provincial Court (Criminal Division) courtrooms, Judges' Offices, administrative space, Crown Attorneys' Offices, interview areas, holding cells and police liaison offices were completed at 1 Nicholas Street, Ottawa.

In the North Bay District Court House, additional jury facilities, washrooms, witness rooms and barristers' rooms were provided.

Holding cells and interview areas were installed in the Provincial Court (Criminal and Family Division) Napanee.

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Renovations completed at Old City Hall, 60 Queen Street, West, Toronto included new J.P. office facilities and renovations to courtrooms A and K.

At 18 King Street, East, the computer installation was relocated from the 15th to the third floor.

In the Windsor County Court House alterations were completed to soundproof the Jury Deliberation Room, to make adjustments in the secure holding area, to provide emergency lighting, to enlarge the Law Association Library and to provide a lounge area.

Interview space and a Judge's washroom were provided for the Provincial Court (Family Division) in Sarnia.

Under Construction

Construction is underway in the Hamilton County Court House to provide an additional jury deliberation room, a new elevator and proper security circulation.

Enlarged court facilities and a holding area will be completed in the near future for the Provincial Courts (Criminal and Family Divisions) in Picton.

An extension to the Bracebridge County Court House is under construction which will provide one courtroom for the Provincial Court (Criminal Division), additional administrative, waiting and interview space and will relieve the congestion around the County Court House.

Improved lighting is being provided for Courtroom #1 in the Peterborough County Court House.

Expansion space for one courtroom is under construction in Windsor for the Provincial Court (Criminal Division).

In Brampton an interim courtroom is being provided in the basement of the Registry Office to relieve the Provincial Court (Criminal Division) facilities at 141 Clarence Street.

A three-courtroom Provincial Court (Criminal Division) facility complete with administrative, interview, waiting, police and holding areas is nearing completion in North Bay.

In Moosonee, Provincial Court (Criminal and Family Division) facilities will be provided in the Government Consolidated Building scheduled for completion in early summer 1981.

The City of Oakville has broken ground for an extension to the City Hall which will include a one-courtroom Provincial Court (Family Division) and supporting office space.

Construction is well underway on the St. Catharines Court House which, when completed, will accommodate Supreme, County, Provincial Courts (Criminal and Family Divisions) and Small Claims Court.

In Planning/Lease Search/Negotiation

Schematic sketches are being prepared for a Court House in Ottawa to house Supreme, County, Provincial Courts (Criminal and Family Divisions) and Small Claims Court.

An architectural program is under preparation for a Justice Complex in Metro Toronto.

Studies are underway for the provision of additional Justices' offices and supporting facilities in Osgoode Hall.

A lease search has been initiated to identify appropriate premises for additional Provincial Court (Family Division) space in the Metro Core.

Contract documents are being prepared for a one-courtroom, Provincial Court (Criminal Division) extension to the Parry Sound County Court House.

A feasibility study is underway to consider the consolidation and expansion of court facilities in Orangeville.

Contract documents are being completed for the re-alignment of office space at 18 King Street, East, Toronto.

Contract documents and leasing negotiations are in progress to expand the present Provincial Court (Criminal Division) premises at 141 Clarence Avenue, Brampton from a five courtroom to an eleven courtroom facility.

Drawings are being prepared for the relocation of court support functions in Sudbury from the County Court House to the adjacent vacant Registry Office. This reallocation will provide necessary expansion space within the Court House.

Drawings and contract documents are in preparation to provide more adequate Law Association and interview facilities in the Kenora District Court House.

Lease negotiations are underway in Peterborough which will provide a three-courtroom Provincial Court (Criminal and Family Division) Court; in Hamilton a lease search is underway for space to accommodate three courtrooms for Provincial Court (Criminal Division) and the Small Claims Court; negotiations are continuing to provide interim office space for the Crown Attorney in L'Orignal, pending relocation to the Registry Office; site proposals received for Provincial Court (Criminal Division) in Whitby were unsuitable and a new lease search has been initiated; in Chatham negotiations are continuing for leased space to relocate the Provincial Court (Family Division); potential sites have been identified in Oshawa for the relocation of the Provincial Court (Criminal Division) and negotiations are underway; in Cambridge sketches and negotiations are in progress for the relocation of the Provincial Courts (Criminal and Family Divisions); potential sites are under study in Welland for the relocating of the Provincial Court (Criminal Division); additional space has been obtained for the Official Guardian at 180 Dundas Street, West and construction will start in the near future; in Timmins negotiations are underway to obtain additional space for the District and County Court which will provide more adequate security and more efficient space utilization.

Inquiry Management and Appointments Branch

P.W. Clendinneng,
Director

The Inquiry Management and Appointments Branch has two principle responsibilities:

1. Co-ordinating and directing the logistic support of, and advice to, Royal Commissions and Judicial Inquiries under the Public Inquiries Act, 1980, and Task Forces and other Studies funded through the Ministry of the Attorney General.
2. Administering the program for the appointment of Justices of the Peace, Notaries Public, and Commissioners for taking Affidavits.

In addition, this Branch administers the Public Institutions Inspection Act and the Blind Persons' Rights Act on behalf of the Ministry of the Attorney General. Additional responsibilities include drafting, co-ordinating, and processing all of the Ministry's Orders-in-Council, and

co-ordinating the processing of both Regulations, and Answers to Questions asked in the Provincial Legislature.

The revised Management Board Guidelines for Royal Commissions which were introduced in the 1979/80 fiscal year continue to be of major assistance to Chairmen in the administration of their Commissions. In 1980/81 this Branch provided support to seven Royal Commissions, and three Special Studies. During the same period, the reports of four Royal Commissions and one Special Study were tabled. Extensive use was made of the word processing equipment acquired in the 1978/79 fiscal year in the preparation of these reports, resulting in substantially reduced production costs.

The revised fee structures relating to the remuneration of Justices of the Peace, and the appointment of Notaries Public and Commissioners for taking Affidavits, were successfully implemented during 1980/81. During the forthcoming year, the record system for Notaries Public and Commissioners for taking Affidavits will be substantially revised and upgraded which will result in improved efficiency and service.

Provincial Courts (Criminal Division)

Chief Judge F.C. Hayes
Associate Chief Judge H.A. Rice

Court Sittings

During the past fiscal year, the Provincial Courts (Criminal Division) continued to hold sittings on a regular basis at approximately 149 locations throughout the Province of Ontario with multiple courtroom establishments at approximately 25 locations. The Court was faced with a continuing change in the nature of the caseload, such as a greater number of substantial prosecutions arising from complex commercial transactions, more charges where a number of individuals are jointly charged with criminal and/or narcotic offences and an increasing number of prosecutions under miscellaneous federal and provincial statutes.

Throughout the Province there have been continuing efforts made to maximize the use of available judicial personnel and facilities by

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introducing a number of changes in court scheduling procedures. In addition, substantial emphasis is being placed on an early review of the nature of the case by both Crown and Defence Counsel. The various procedures in this regard are aimed at narrowing the issues before the court so as to more accurately estimate the amount of court time required for the trial or preliminary hearing.

As has been the case in the past, efforts are being made by the Chief Judge's office to obtain a degree of uniformity in the time between the laying of the Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the Province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e., cases occupying one day or more) increased from 831 in 1979-80 to 910 in 1980-81. Special matters being prosecuted by representatives of the federal Department of Justice accounted for 171 courtroom days and special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 715 courtroom days in 1980-81. The movement of Judges from Metropolitan Toronto to other areas for special relief increased by some 115.4 per cent, from 377 days in 1979-80 to 812 days in 1980-81. Included in the 1980-81 figure are additional sittings of the court on a regular basis in Brampton, Dundas, Kitchener and Newmarket.

The demand continued for the court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings. An increase over the past few years in the level of law enforcement has led to a greater number of changes and we have been unable to meet all their demands for additional sittings in various areas of Northwestern Ontario.

Provincial Offences Act

The Provincial Offences Act and the companion amendments to the Provincial Courts Act, which legislation resulted in the establishment of the Provincial Offences Court were proclaimed as of March 31, 1980.

The sittings of the Provincial Offences Court were established on a four-tier system at most locations throughout the Province with the sittings being at 9 a.m., 10:30 a.m., 1:30 p.m. and 3 p.m..

This results in a more intensive use of the physical facilities and in the citizen who is charged and all necessary witnesses being required to attend at the court premises for not more than 1½ hours.

The provisions of the Provincial Offences Act provide the defendant with an opportunity of pleading guilty with an explanation in a plea of guilty courtroom. The sittings of the Provincial Offences Court for the purpose of accepting pleas of guilty with an explanation have been established at various court locations throughout the Provincial on such a basis as to afford the defendant an opportunity to plead guilty with an explanation within a 15-day period.

The provisions of the Act requiring the defendant, if he wishes to plead not guilty, to indicate his decision within 15 days has resulted in improved scheduling procedures and a more efficient use of personnel and physical resources.

Court Visitations

The Chief Judge visited a number of areas of the Province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also held their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory offence caseload and various alterations have been made to case scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Bilingual Court Services

On proclamation of Bill C-42, arrangements were completed to provide a trial, and where resources

are available on a consent basis, a preliminary hearing, before a French-speaking or a bilingual Judge when so requested throughout the Province of Ontario. This is an expansion of the bilingual service which was being provided in certain areas of the Province where trials were proceeding before a French-speaking or bilingual Judge on a consent basis.

Pursuant to the provisions of the Judicature Act certain Provincial Offences Courts have been designated for the provision of bilingual trials.

Adjournments in the Provincial Courts (Criminal Division)

The practice direction by the Honourable W.G.C. Howland, Chief Justice of Ontario, with

respect to adjournments in the Provincial Courts has continued to be of very substantial assistance in facilitating the setting of trial dates and has resulted in fewer trials not proceeding on the appointed day.

Judicial Education

The Office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the Judges. The Law Clerk assigned to the staff of this office continued to prepare appropriate annotations for recently reported judgments and to carry out research in areas of criminal law relevant to the Provincial Courts (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

Judicial Appointments

	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980	As of Mar. 31 1981
Provincial Judges in Ontario						
Number of Full-time Judges, including Chief Judge	117	128	129	137	141	147
Number of Judges Retired or Deceased or on L.T.I.P.	6	5	8	5	9	5
Number of Judges Appointed	7	15	8	12	12	9
Number of Part-time Judges	2	2	2	1	1	1
Number of Judges on Extension	6	4	6	5	10	12

As of March, 1981, 12 of the above Judges were also presiding in the Family Division

	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980	As of Mar. 31 1981
Provincial Judges in Metropolitan Toronto						
Number of Full-time Judges, including Chief Judge	28	36	34	40	48	53
Number of Judges Retired, Deceased or Resigned	1	0	2	1	2	0
Number of Judges Appointed	1	8	0	7	10	5
Number of Judges on Extension	2	1	2	2	3	2

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The Judges Education Program was held at the University of Western Ontario again this year. This program permits a Judge, once every three years, to live for one week in a university setting and to participate in a program consisting of lectures, discussions and videotapes.

The Provincial Judges Association (Criminal Division) continued with its education program composed of regional education and sentencing seminars.

The Judges of the Court have, with the co-operation and assistance of the Chief Justice of Ontario and the members of the Court of Appeal, attended in groups of six to observe the presentation of Criminal Appeals and thereafter meet with the members of the court.

General Comments

Substantial emphasis is and will continue to be

placed on encouraging pretrial disclosure in criminal matters.

In addition to these efforts, we are continuing to have a Provincial Judge or a limited group of Provincial Judges assigned to a particular section of the caseload on a continuing basis until that portion of the caseload has been finalized. This type of assignment and scheduling arrangement, which has been in operation at the additional court facilities at College Park in Toronto since September of 1979, was implemented in the courts at the Old City Hall in September of 1980 and it would appear that it is assisting in achieving an earlier disposition date for the matters coming before the court.

New accommodation for the courts has been provided in Newmarket and North Bay and this has facilitated the operation of the courts in those areas.

Statistics

The statistical reports indicate the following changes within the system:

	<u>1979-80</u>	<u>1980-81</u>
Charges Received — All Statutes		
Metropolitan Toronto	2,019,131	1,979,943
Remainder of Province	1,895,042	1,907,122
Total	<u>3,914,173</u>	<u>3,887,065</u>
Dispositions — All Statutes		
Metropolitan Toronto	1,919,059	1,726,333
Remainder of Province	1,912,912	1,970,980
Total	<u>3,831,971</u>	<u>3,697,313</u>
Dispositions — C.C.C.		
Metropolitan Toronto	113,249	113,300
Remainder of Province	230,871	249,094
Total	<u>344,120</u>	<u>362,394</u>

Provincial Courts (Family Division)

Chief Judge H.T.G. Andrews
Associate Chief Judge Robert J.K. Walmsley

Jurisdiction

The current authority of the Provincial Courts

(Family Division) includes the following matters:

1. Prosecutions under the federal Juvenile Delinquents Act in respect of the criminal conduct of infant offenders (juvenile delinquency) and criminal conduct against infant victims (contributing to delinquency).

2. Child protection under The Child Welfare Act of 1978, dealing with intervention through children's aid societies into a family's life, when its care and treatment of children fall below certain minimal standards.

3. Adoption under The Child Welfare Act of 1978, dealing with the dissolution of old parent-child relationships and the legal establishment of new ones.

4. Inter-spousal rights and obligations under The Family Law Reform Act of 1978 and The Reciprocal Enforcement of Maintenance Orders Act, covering such things as financial support of a dependent spouse, exclusive possession of the matrimonial home and protection from spousal harassment and molestation.

5. Parent-child rights and obligations under The Children's Law Reform Act of 1977, The Family Law Reform Act of 1978 and The Reciprocal Enforcement of Maintenance Orders Act, such as custody and access, findings of paternity, child support and protection from harassment and molestation by the non-custodial parent.

There are plans to amend The Children's Law Reform Act of 1977 in the autumn of 1981. The amendments will codify and reform Ontario's law of custody and guardianship. Provincial Courts (Family Division) would be given jurisdiction to handle matters under this new and expanded statute.

In this connection, a constitutional reference to the Supreme Court of Canada in January 1981 seems to have had some impact on the volume of certain domestic cases coming before the Provincial Courts (Family Division), even though the Supreme Court decision will not be delivered until the autumn of 1981 at the earliest.

The Reference re Section 6 of the Family Relations Act of British Columbia in effect has set up a constitutional challenge to the jurisdiction of provincially appointed Judges to adjudicate on custody, guardianship, exclusive possession of the matrimonial home and protection from harassment and molestation. As a result, the trend of legal counsel has been to bring their applications before federally-appointed judges.

Provincial Judges also have the authority to try many offences under the federal Criminal Code and under The Provincial Offences Act of Ontario. Many intra-familial offences (such as domestic

assaults and incest) are heard by Judges who, while they normally preside over their local Provincial Court (Family Division), reconstitute their Court as the local Provincial Court (Criminal Division) or Provincial Offences Court because only the latter Courts have the jurisdiction to hear these criminal and regulatory matters.

Administration

The Judicial (and administrative) activities of the Family Division Courts are carried out by 74 Judges.

Chief Judges	2
Full Time Family Division Judges	54
Full Time Judges on Leave of Absence	2
Part Time Judges	4
Judges Serving Both Criminal and Family Divisions	12
Total	74

(The Unified Family Court complement continues at 4)

The following changes in the judicial roster took place during the year:

Judicial Retirements	2
Judicial Appointments	8
Judicial Relocations	2

There are 38 full-time Family offices and 17 combined Family and Criminal Division offices. These 55 offices provide the support services for sittings which are held at 110 locations throughout the province.

While noting the stability of the caseload over the past two years it should be borne in mind that the trend to increased legal representation of parties appearing before the Court continues to present scheduling problems as these often lengthy matters can only be accommodated by utilizing time taken from the weekly schedule of sittings.

Final Dispositions		
	1979/80	1980/81
Family Law Reform Act	39,866	37,172
Child Welfare Act	21,465	21,947
Juvenile Delinquents Act	32,841	33,598
Other Statutes	3,116	5,281
Total	97,288	97,998

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In consequence there has been some deceleration in the pace of case movement from first appearance to final disposition. At year's end, 25 per cent of the Courts were exceeding optimum standards for time lapses between application and first appearance on Family Law Reform Act matters, while 32 per cent of the courts were exceeding the standards on matters heard under the Juvenile Delinquents Act with respect to elapsed time between the laying of an information and first appearance.

With the shortage of court time and increased representation, there has been a significant increase in adjournments, to 79,339 in 1980/81 from 75,705 in 1979/80.

One of the steps taken to maintain adequate service delivery during the year was the appointment of a full time Family Division Judge who, contrary to common practice, is not assigned to preside over a single court. This Judge moves from court to court throughout the province acting as a replacement for Judges on vacation or on leave.

Justices of the Peace

Eight staff members were appointed Justices of the Peace between April 1980 and February 1981.

Programs and Resources

If the court is to carry out its responsibilities, it is essential that a full range of support services be available to the judges, staff and public.

Ideally, a minimal range of resources serving a community would include: legal aid, educational institutions, public assistance programs, law enforcement and children's services agencies, as well as medical and dental facilities staffed and prepared to interact with the court.

Within the court complex itself, one should expect to find the traditional facilities in addition to personnel prepared to provide intake and conciliation services.

Unfortunately, few communities have this complete a group of services at their command; in consequence, the Family Division Judges and Court Administrators continue to participate actively in the creation of new resources and the sustaining of existing programs throughout the province.

For example, because of its success in past years, the joint project, (Ministry of Community and Social Services and Ministry of Attorney General), known as the "Parental Support Program" received additional impetus when 32 new workers were added to the program throughout the province.

Another joint project of these ministries has been the judicially initiated Court Clinic in the Judicial District of Durham. Particularly noteworthy is the citizen involvement in the operation of this project.

Another judicially inspired project in the Durham area is the volunteer staffed Conciliation Service which has already proved its worth by reducing the number of contentious issues existing between the parties, thereby requiring trial time only for settlement of outstanding issues.

Hastings County also has a Ministry of Community and Social Services funded Court Clinic, the administration of which involves both the Judges and Court Administrators. One of the Judges is also a board member of the Belleville Counselling Services.

Judges in courts within the Judicial District of York have been involved in a number of projects during the year, for example, The Community Service Orders and Restitution Project which provides Judges with alternative dispositional resources for juvenile offenders, and The Jade (Juvenile, Alcohol and Drug Education) project sponsored by the Addiction Research Foundation.

Other projects on conciliation and supervised access were studied and in some cases, conducted during the year. Simcoe County has a highly successful Diversion Program in progress under the supervision of their judges. It is now being expanded to adjacent areas.

Training and Development

Training and development continues to receive high priority in the Family Division.

Within the province judges attended such programs as:

The Ontario Family Court Judges Association Spring Seminar — (Toronto — April)

The Judicial Development Institute — (Toronto — October/November)

The Family Court Clinic Conference — (Ottawa — April)

Certain Judges travelled to other areas to participate in conferences and seminars on work-related topics such as:

The Canadian Association of Provincial Court Judges — Sub-Committee on Court Standards (Ottawa — April)

The Institute for Court Management (Colorado — August)

The Canadian Institute for The Administration of Justice — Conference on the Trial Process (Vancouver — November)

The Eighth National Conference on Juvenile Justice (San Francisco — November)

In October, six newly appointed Family Division Judges attended a New Judges Orientation Program conducted by the Canadian Association of Provincial Court Judges in Ottawa.

Apart from participation in programs specifically designed for Judges, the Family Division bench took an active part in training the 55 Law and Social Work summer students assigned to them under the Youth Secretariat's Experience '80 program.

Judges also made a significant time commitment to participation in the Ministry of Community and Social Services' Court Preparation and Presentation Project.

This project, conceived and implemented by the Director of Children's Services, is designed to improve the administrative relationship between courts and their local Children's Aid Societies.

Projects have been successfully completed in Thunder Bay, Ottawa, Waterloo, London, Peterborough and Lindsay. It will continue in other locations during the next year.

The Chief Judges' office played host to visitors from other Provinces who wished to examine Ontario's system of enforcement of maintenance orders.

In October the office was contacted by representatives from the Provincial Department of the Attorney General and the Department of Social Services for the Province of Saskatchewan. A four day visit ensued with the visitors dividing their time between the Chief Judges' Office and courts in Hamilton, Toronto and Ottawa.

In November the Family Benefits Branch of the Ministry of Community and Social Services played host to the Director and Assistant Director of Family Maintenance and Court Services from the Alberta Ministry of Social Services and Community Health.

The Chief Judges and their staff participated in their visit by supplying legal and administrative information on enforcement and other aspects of the social service delivery system in the Family Division Courts.

As part of the commitment to keep Judges informed, the Chief Judges' office maintains an on-going system of mailings which contain judgments, articles, memorandums and other miscellaneous material relevant to their work.

During the year, 251 mailings were sent out containing 135 judgments.

Unified Family Court

This pilot project presently functions only in the Judicial District of Hamilton-Wentworth. It is intended to implement, by the use of a particular model, the major recommendations of the Family Court — Working Paper One, published by the Law Reform Commission of Canada, 1974, and Report on Family Law, Part V, Family Courts released by the Ontario Law Reform Commission in 1974. Established by the Unified Family Court Act, 1976, the initial term of the project was fixed from July 1, 1977 to June 30, 1980. During this period, the project was funded further to a federal-provincial agreement by both governments. In the same period of time, pilot projects, using other models, were established in three other provinces under similar agreements.

Upon the extension of the Hamilton project to June 30, 1982, (the Unified Family Court Amendment Act, 1979), the federal government's contribution became limited to the salaries of judges

Administratively, the Court is operated within the framework of the Provincial Court system. Judicially, the judges are appointed as judges of the County and District Court and local judges of the Supreme Court; they have the *parens patriae* jurisdiction of the Supreme Court.

Exclusive jurisdiction is conferred by the Act respecting all proceedings listed in its schedule or as may be conferred by other statutes.

The Ministry of the Attorney General

In summary, this includes all proceedings presently heard in the Provincial Court (Family Division) as well as the civil jurisdiction of the County and Supreme Courts in matters related to annulment, divorce, family property, maintenance, custody and access as presently heard elsewhere in the County and Supreme Courts.

PROGRAMS AND ADMINISTRATION DIVISION

Glenn H. Carter,
General Manager

Function

This Division of the Ministry is responsible for the direction and co-ordination of the Ministry's support services including:

- information and computer systems
- budgeting, accounting and financial management
- administrative services
- program monitoring and evaluation
- statistical and reporting mechanisms
- audit operations
- personnel services
- program analysis
- supreme court accountant
- affirmative action program

During the fiscal year, in addition to its continuing efforts to comply with the Government's constraint measures, the Division has placed further emphasis on audit operations, the streamlining of court procedures through the introduction and implementation of the Provincial Offences Act, the introduction of a pilot project in the Small Claims Court, and the testing of mini-computer systems in the Oshawa courts system.

Affirmative Action Program

Helen Bottaro,
Manager

With the issuance from Management Board of Cabinet of a new Directive on Affirmative Action effective April 1980, the goal of the program was

further clarified. Ministries were directed to work towards achieving by the year 2000, a minimum of 30 per cent female representation in all classifications. The means of accomplishing this included the setting on numerical hire/promotion targets and the provision of on-job training to to accelerate the career development of women. The Affirmative Action Incentive Fund was created to assist managers to increase the number of women involved in on-job training, by providing replacement salary dollars.

To determine if it was possible to target for a classification, it was necessary to:

- examine historical turnover and future retirement data in order to project the number of vacancies that would occur, and
- identify the number of men and women who might be able to compete for these vacancies.

For 1980-81, one position at the level of Law Administration AM-14 and one Clerical Services CM-13 position were identified as priority hire/promotion targets. Throughout the year, there were 11 vacancies at the Law Administration AM-14 level, with six men and five women being hired; in this classification, the positions into which women were hired included Family Court Administrator, Deputy Local Registrar, Criminal Court Administrator, Assistant Criminal Court Administrator, and Provincial Prosecutor. Ms. T. Leahy was the first woman to be appointed to the position of Provincial Prosecutor. There were no vacancies at the level of Clerical Services CM-13. Women were also hired in the following other under-represented classifications:

- Law Administration AM-15 (one woman),
- Legal PM 14-19 (11 women),
- Legal PM 19-20 (three women),
- Systems and Services AM-18 (one woman), and
- Management Services Officer 3 (one woman).

Through rotation, secondment, acting appointments, and other special assignments, managers continued to provide on-job training to employees during 1980-81. In total, 191 women were involved in on-job training, including 112 in acting appointments, 35 in job rotation, one in an audit trainee position, nine through secondment, 26 through other special assignments, and eight through assignments sponsored by the Affirmative

Action Incentive Fund. This was an achievement of 477 per cent over the Ministry's original commitment of 40 women.

The Incentive Fund assignments provided training in the following areas: Criminal Court Administration, Family Court Administration, Provincial Prosecutor, Sheriff's Officer, Office Management, and Records Services Officer.

Through the Affirmative Action Council, the following areas were examined and recommendations developed: the Office Services/Clerical Services classification system; word processing; maternity leave benefits.

In addition, women were sponsored by the Affirmative Action Program to attend Phase 1 of the Ministry Management Development Program, training sessions for Affirmative Action Representatives, and career workshops conducted by the Affirmative Action Council, and a newsletter, Focus, was developed to inform employees about program activities.

Finance and Services Branch

Mr. H. A. Gibbs,
Director

During the fiscal year 1980/81 the Branch, in its role of providing financial and administrative support to the Ministry, was very much involved in offering services to assist program managers in coping with mounting costs arising from growing workloads and unabated inflation.

Fundamental to any decisions concerning options on resource utilization is the provision of adequate information on which to base a decision. The completion of the project to provide improved computing facilities for the Ministry took place in 1980, thereby allowing financial reporting systems to be upgraded. This in-house installation is in the process of being integrated with the central computing facilities at Queen's Park, thereby allowing further improvements in the flow and reporting of financial information.

Plans to centralize a major segment of the Ministry's banking operations were completed in the spring and this initiative will be in place by fall of 1981. There is every indication that the hoped-for reduction in working capital requirements for the Ministry will be achieved, and plans for similar centralization arrangements

in other areas of the Ministry's banking operations are under close consideration.

The Ministry continues to be under severe pressure to sustain and improve the present level of service with only marginal increases in funding. This places a heavy demand on the services of this Branch and a major allocation of our effort continues to be directed towards funding administrative improvements designed to achieve cost savings.

Audit Services Branch

J. Solymos,
Director

Audits

The Branch continued to provide audit and accounting assistance to various projects, and performed a number of special assignments and investigations, in addition to fulfilling regular audit requirements in regard to Court and Judicial Offices, Branches, Boards and Commissions. To give greater recognition and emphasis to the comprehensive audit concept which has been universally adopted during recent years, an Internal Audit Committee has been established in this Ministry. The Committee is chaired by the Deputy Attorney General and composed of senior officials of the Ministry. Its role is to provide direction and support in the development and adoption of an appropriate audit policy for the Ministry. To give effect to the policy, new terms of reference are being formulated by the Committee. This will be followed by development of a suitable audit program and audit plan designed to achieve both the short-term and the long-term goals and objectives of the Ministry's policy. To fulfill the additional responsibilities of the internal audit function as demanded by implementation of the comprehensive audit processes, the Branch staffing level will be reviewed and restructured to ensure the availability of the necessary skills, expertise and resources required to provide an effective audit service.

Defaulted Fines/Licence Suspension System

Suspension and reinstatement orders processed during the year ended March 31, 1981,

The Ministry of the Attorney General

increased a slight one per cent over the previous year's volume of 203,888 to 206,020. The value of outstanding fines collected through licence suspension increased by 6.2 per cent during the year ended March 31, 1981, from \$3,317,624 the previous year to \$3,524,017.

These marginal increases occurred in addition to efforts put forth to reduce demand on the system by improving the rate of pre-suspension collection.

One of the initiatives developed at the instance of Branch management was tested in a pilot project in the Provincial Court (Criminal Division) for Metropolitan Toronto, which has historically generated approximately 49 per cent of total suspension volume. This involved the issue to the defendant of a final notice that a suspension order was being prepared and would be issued in 15 days if payment were not sooner received.

This specially designed notice, utilizing color highlighting to capture attention, achieved an unexpectedly high rate of success in the pilot project, resulting in a pre-suspension payment rate of approximately 45 per cent of the cases in which the notice was issued. Use of the notice on a continuing basis has been similarly successful.

Further amendments are being put forth affecting the content of the suspension notice and the time frame during which drivers ordered suspended have the opportunity to respond and to expedite clearance of their driving privileges before suspension becomes effective. These improvements are expected to be greatly beneficial to the public and to reduce the number of inquiries to the system by better enabling driver response prior to loss of privileges.

Personnel Management Branch

O. M. Mitchell,
Director

In the 1980-81 fiscal year, the Branch continued its responsibility to assist Managers in program operation, particularly through the best utilization of human resources.

Along with the continuing policy of staffing and fiscal constraints, the Government plans to relocate the offices of certain ministries has required the addition of new recruitment procedures thereby affecting priority, volume

and part-time recruitment. The Branch's responsibility to disseminate information on these controls and initiatives from the Civil Service Commission relating to policies such as surplus staff, the handicapped, credentialism, and to maintain recruitment within these guidelines dominated the staffing function and led to the increased necessity of assistance and advice to Managers on the best utilization of resources available. Every benefit was derived from provincially sponsored work programs and the Branch administered special staffing programs, such as O.C.A.P. CO-OP, the Summer Student Program, Experience '80 and Work Experience Weeks for the Ministry.

Good use was made of staff development programs sponsored by the Civil Service Commission.

In our own Ministry, staff development of the program continued to be offered in three geographical locations. Sponsored by this Ministry in co-operation with Sheridan College, it continues to furnish managers with training appropriate to the Ministry's management objectives.

Pre-Retirement Programs were continued during 1980-81 on a cost shared basis with other ministries in the Justice Policy Field. The programs for the Ministry of the Attorney General are co-ordinated by the Employee Counsellor. Twelve seminars were held in Toronto during the 1980-81 fiscal year and were attended by 37 participants. Spouses were also invited and evaluations continue to be extremely favourable. These programs will be continuing into the 1981-82 fiscal year.

In position administration, ongoing work concentrated on revision or maintenance of Ministry organizations and positions. A major undertaking was participation in the Civil Service Commission Clerical and Office Services Project in which this Ministry along with others in the service tested proposed changes in class standards in a broad selection of appropriate positions.

The Branch continues to be responsible for the Ministry classified structure ceiling, maintaining records and monitoring proposed changes in its composition.

Ministry changes which have involved major organization and staffing activity include the

opening of court offices in the new Judicial District of York Region at Newmarket and the transfer of the Legal Branch of the Ontario Development Corporation to Common Legal Services in this Ministry.

With effective staff relations guidance, interpretative advice on Working Conditions and the Employee Benefits Collective Agreement, branch staff assisted Managers in resolving complaints whenever possible.

Program Planning and Evaluation Branch

D. Meuller,
Director

The Branch commenced this fiscal year by conducting a study of its existing mandate. The findings and recommendations of this study, entitled "The Role of the Program Planning and Evaluation Branch in the 80's", were reported to the General Manager.

During this study the staff of the Branch visited equivalent organizations in other ministries. The findings, which were summarized and reported to the General Manager in July, 1980, recommended that the mandate of the Branch be re-directed. The mandate was to include a more corporate approach with emphasis on strategic planning. The Branch would commence its new role by providing a "Decision Support System" to the Deputy Minister, General Manager and other Ministry Program Managers through the following undertakings:

1. Examining the administrative implications of legislation and policy changes.
2. Planning, developing and co-ordinating the management process and other budgetary processes.
3. Commencing administrative and special studies with emphasis on program evaluation and organization reviews.

To fulfill this new and expanded role of the Program Planning and Evaluation Branch, the Branch needed to acquire other areas of expertise which would contribute toward the Branch's proposed new functions. The areas identified were:

1. Corporate Planning
2. Econometrics/Program Evaluation

3. Criminology

A staff member with a specialization in criminology joined the Branch in January on a contract basis.

As in prior years, the principal activities of the Branch have reflected the ministry's need to relate to the central agencies, particularly with the Management Board of Cabinet in the development and operation of the Management-By-Results (MBR) process. The MBR is an integral part of the overall government budgetary and estimates process and is designed to encourage the more efficient allocation of financial and manpower resources to ministry programs and to ensure that planned results are measured and achieved. In 1980-81 the total coverage of operating programs represented about 82 per cent of total ministry resources.

Other services provided by the Branch during 1980-81 were concerned with specific day-to-day issues. Statistical reports and other evaluations were prepared as support for several applications to Management Board for budgetary and program adjustments.

Developmental and co-ordination work was done on Federal/Provincial cost-sharing agreements concerning legal aid, native peoples, Unified Family Courts and compensation to victims of certain crimes. Special studies on staffing standards were completed for the Metropolitan Toronto Criminal Court, Provincial Courts (Family Division) and Provincial Courts of Combined Criminal and Family Jurisdiction.

Information and Computer Systems Branch

D.H.S. Thornton,
Director

The Branch provides services to the Ministry in two separate areas of responsibility. One area of responsibility is the collection, dissemination and analysis of operational, statistical and management information. At the present time, the majority of information collected relates to the operation of the courts and to the Crown Attorneys' offices.

Monthly, quarterly and annual statistical reports are prepared on a regular basis for senior officials of the Ministry, Division and Branch heads and the Judiciary. In addition, a wide variety of special reports are prepared upon request.

The Ministry of the Attorney General

The Branch continues in its efforts to improve data collection and dissemination services. Activities in this area included an update of the computerized statistical systems for the Provincial Courts, the design of a courtroom utilization system and improvements in automated information retrieval systems.

This Branch also provides support to the various Branches and Divisions of the Ministry in the development and improvement of manual and computerized systems and in the field of management consulting.

While the Branch undertook a wide variety of projects, those of major interest included short-term improvements to the Cyclops system, the start of work leading to the replacement of Cyclops with a fully integrated computer system, the continuation of development of a computerized system for the Assessment Review Court, a feasibility study for the Office of the Legislative Counsel on the computerization of the statutes, maintenance of the Public Trustee system and an update of the enquiry data bases for the Provincial Courts (Criminal Division).

The Branch also devoted considerable time and effort assisting in the formation and establishment of the Canadian Centre for Justice Statistics.

Accountant, Supreme Court of Ontario

E. J. McGann,
Account

Duties

This office is the depositary for all money, mortgages and securities which are paid into, or lodged with, the Supreme Court of Ontario. These monies, mortgages and securities are received, and disbursed or released pursuant to judgments and orders of the Supreme Court of Ontario, and in accordance with the Judicature Act and other relevant statutes.

Assets

Assets under management at the end of the fiscal year 1981 totalled \$176 million from \$164 million (revised) the previous year.

Revenues and Investments

The interest revenue from the portfolio increased to \$16.3 million from \$14 million in the fiscal year 1979-80. Monies paid into the Supreme Court of Ontario for suits and matters in the 1980-81 fiscal year totalled \$60.9 (1979-80 — \$64.2 million), while disbursements for the same period amounted to \$63.4 million (1979-80 — \$66.1 million).

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, Q.C., LL.B., LL.M.,
S.J.D., LL.D.

Vice Chairman:

Honourable George A. Gale, C.C., Q.C., LL.D.,

Members:

Honourable Richard A. Bell, P.C., Q.C.

Honourable James C. McRuer, O.C., LL.D.,
D.C.L.

William R. Poole, Q.C.

Barry A. Percival, Q.C.

Function

In 1964, pursuant to The Ontario Law Reform Commission Act, S.O. 1964, c. 78, the Ontario Law Reform Commission was established as an independent Commission. The function of the Commission is to inquire into and consider any matter relating to:

1. reform of the law having regard to the statute law, the common law and judicial decisions;
2. the administration of justice;
3. judicial and quasi-judicial procedures under any Act; or
4. any subject referred to it by the Attorney General.

In the course of its study of a broad range of topics within the legislative competence of the Province of Ontario, the Commission has published 57 Reports and 14 Annual Reports, the latter briefly describing the Commission's activities during each fiscal year. The 57 Reports contain recommendations for law reform in a substantial number of areas. The Commission's Reports have formed the basis for a variety of statutes including The Family Law Reform Act, R.S.O. 1980, c. 152, The Succession Law Reform Act, R.S.O. 1980, c. 488, The Children's Law Reform Act, R.S.O. 1980, c. 68, The Marriage Act, R.S.O. 1980, c. 256, The Age of Majority and Accountability Act, R.S.O. 1980, c. 7, The Landlord and Tenant Act, R.S.O. 1980, c. 232, Part IV, and The Powers of Attorney Act, R.S.O. 1980, c. 386. In addition, the new Occupiers' Liability Act, R.S.O. 1980, c. 322, substantially reflects the Draft Act proposed by the Commission in its 1972 Report on Occupiers' Liability.

Activities During 1980-81

In 1981, the Commission published Parts I, II and III of a projected five-part Report on the Enforcement of Judgment Debts and Related Matters. In its Report, the Commission examined comprehensively the complex and often archaic substantive and procedural law and practice relating to the enforcement of money judgments by unsecured creditors. After examining the deficiencies in the present law and practice, and after considering legislation or proposed legislation in other jurisdictions, the Commission put forward approximately 500 recommendations for reform. Some of the recommendations relate to the organizational and administrative aspects of enforcement. For example, it was proposed that a new, integrated enforcement office should be established for each county. This new office, under the direction of a sheriff, would have overall responsibility for virtually all enforcement activities taken in respect of money judgments from all courts.

Other recommendations deal with the traditional methods by which creditors may enforce money judgments against their debtors. Proposals for reform are made respecting the seizure and sale of personal and real property, garnishment of income and other debts, equitable execution, and exemptions from execution. For example, under the Commission's proposals, a creditor would be entitled to obtain a continuing garnishment order, which would remain effective until the amount specified in the order has been paid. In respect of enforcement against land, the Commission recommends as a long-term proposal the abolition of the writ of execution as a general lien; in its stead, it is recommended that, in order to bind land, a creditor should be required to register his writ directly against the title.

Yet other recommendations relate to the means by which debtors may seek to avoid traditional enforcement measures by obtaining an instalment payment order and a stay of enforcement activities. In this connection, provincial and proposed federal legislation are examined.

The two remaining Parts of the five-part Report will consider, among other things, prejudgment enforcement remedies, voidable transactions, and creditors' relief legislation, including Crown and other priorities.

Boards and Commissions

The present program of the Commission consists of more than 10 projects. The Class Actions Project, a significant and complex project, involves an investigation of the desirability of expanding and developing the law of class actions beyond the confines of Rule 75 of the Supreme Court of Ontario Rules of Practice, the existing procedural rule that governs the initiation of class actions in Ontario. Substantial progress on the Class Actions Project has been made during the past year and it is anticipated that this project will be completed within the near future. Through the fiscal year 1980-81, a great deal of work also was accomplished on the project concerning Witnesses Before Legislative Committees. The Commission's report in this project will be available for publication shortly. Pending the completion of the Report on Class Actions, work has been suspended temporarily on the Commission's Law of Trusts Project and on the final two Parts of the Report on the Enforcement of Judgment Debts. Research on these important projects will be resumed as soon as the Class Actions Report has been concluded. Work is continuing also on the following projects: the Administration of Estates of Deceased Persons, the Law of Standing, the Law of Mortgages, Powers of Entry, Amendment of the Law of Contract and Contribution Among Wrongdoers. Two projects, concerning Basic Principles of Land Law and Declarations of Marital Status, have been deferred as a result of demands that have been made upon Commission resources; however, work will resume on these projects as soon as possible.

Continuing liaison with the Uniform Law Conference of Canada and the Canadian Bar Association, as well as the working relationships maintained with other law reform agencies, have, as always, proved of great benefit to the Commission in its research and deliberations. Valuable assistance has also been derived from many other sources, including meetings with representatives of the legal profession and the academic community, and communications from the public.

Criminal Injuries Compensation Board

Chairman:

Allan Grossman

Vice-chairman (part-time):

Mrs. Anne Stanfield

Vice-chairman (part-time):

Mrs. Audrey Merrett

Members (part-time):

Douglas H. Lissaman, Q.C.

Robert W. Mitchell, Q.C.

Harvey Spiegel, Q.C.

Nathan L. Sandler

Uno Viegandt

Ms. E. Lee Monaco

Mrs. Linda Clippingdale

D. Arthur Evans

John D.V. Hoyles

Greville Clarke

The Board, composed of a full-time chairman and 12 part-time members, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of the Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Thunder Bay, Sudbury, Sault Ste. Marie, Kenora, Ottawa, London and Windsor, where hearings took place in the year under review.

Productivity

The Board heard 985 applications, compared to 858 in the previous fiscal year, an increase of 15 per cent. Of the applications heard, compensation was reduced in 66 instances and denied in a

further 125 instances. Total awards granted increased by 18 per cent from \$2,170,688.91 to \$2,434,343.92, while the average award rose from \$2,059.79 to \$2,132.14 or four per cent. The number of applications received rose from 1,190 to 1,274.

Annual Report

This report is available from the Board's offices at 439 University Avenue, 17th Floor, Toronto M5G 1Y8, Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Comparative Summary — Fiscal Years Applications and Disposition

	April 1, 1977 to March 31, 1978	April 1, 1978 to March 31, 1979	April 1, 1979 to March 31, 1980	April 1, 1980 to March 31, 1981
Applications under investigation on April 1	1188	1500	1826	1913
Eligible applications received	1105	1219	1190	1274
Applications heard (1)	570	713	858	985
Applications heard and dismissed	52	47	75	125
Applications heard — further evidence required	1	0	1	1
Second hearings	0	1	1	1
Review of awards	12	6	13	7
Decisions completed and awards ordered (2)	563	713	843	918
Files closed	223	180	245	253
Interim awards	1	6	8	4
Supplementary awards	26	12	49	52
Periodic awards	19	20	29	17
Lump sum payments	\$1,310,698.60	\$1,397,994.00	\$1,736,551.32	\$1,957,309.86
Periodic payments	301,138.28	350,490.75	434,137.59	477,034.06
Total of awards ordered	1,611,836.88	1,748,484.75	2,170,688.91	2,434,343.92
Average award (3)	2,328.06	1,960.72	2,059.97	2,132.14
Applications under investigation March 31	1500	1826	1913	1949

Note: (1) Includes heard but dismissed and heard but further evidence required but does not include files closed.

(2) Includes interim, supplementary and periodic awards.

(3) Periodic payments not included when arriving at average award.

Ontario Municipal Board

The offices of the Board are located at 180 Dundas Street West, Toronto.

All Members of the Board are appointed on a full-time basis and the following is a list of the Members in 1981.

Chairman:

H.E. Stewart

Vice-Chairman:

A.H. Arrell, Q.C.

A.L. McCrae

W.T. Shrives

W.H.J. Thompson, Q.C.

D.S. Colbourne

D.D. Diplock, Q.C.

P.M. Brooks

H.H. Lancaster

Members:

A.B. Ball

C.G. Ebers, Q.C.

H.W. Kelly, Q.C.

J.A. Wheler

E.A. Seaborn

A.J.L. Chapman, Q.C.

W.E. Dyer, Q.C.

C.G. Charron, Q.C.

K.D. Bindhardt

D.H. McRobb

P.G. Wilkes

J.E. Hendy

J.M. Singer, Q.C.

Boards and Commissions

M.D. Henderson
D.Santo
D.M. Rogers, Q.C.
T.F. Baines, Q.C.

Chief Administrative Officer and
Secretary to the Board:
K.C. Andrews

Establishment and Jurisdiction

The Board was created in 1932 under The Ontario Municipal Board Act which repealed but incorporated many of the provisions of The Railway and Municipal Board Act (passed in 1906), The Municipal Schools Accounts Audit Act and The Bureau of Municipal Affairs Act. The establishment of the Board and its authority is now derived from The Ontario Municipal Board Act, R.S.O. 1970, Chapter 323, as amended. Much of its jurisdiction and authority flows from The Municipal Act, The Planning Act, The Highway Improvement Act, The Assessment Act, as well as numerous other statutes.

Functions

The Board acts as an independent administrative tribunal and is not an agency or commission. Its function and duties are prescribed by these Acts. When the Board holds a hearing, it is, of course, governed by any applicable statute; but it is also subject to the rules of natural justice. The administration of justice could be said to be divided between the judicial arm of the government (the Courts) and the executive arm, of which latter this Board is a branch. The Courts operate under strict rules and interpret and follow statutes and precedent. Administrative boards, such as this Board, administer what is sometimes called discretionary justice, having a minimum of rules and a wide spectrum of discretion.

The extent and nature of the jurisdiction of the Board could be described as responsibility for the sound growth and development of municipalities within the framework of the statutes and protection of private interests as much as possible in the following areas:

1. Planning

Approval of restricted area by-laws, references of Official Plans and plans of subdivisions, and appeals from land division committees and committees of adjustment.

2. Municipal Capital Expenditures

Financial supervisory role by approval of capital undertakings and the manner of recovery.

3. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

4. Assessment Appeals

5. Miscellaneous Applications

Applications and Appeals to the Board under The Planning Act

The following table shows the number and types received in 1980 and the previous four years:

	1976	1977	1978	1979	1980
Applications for approval of restricted area by-laws	3202	3417	3569	3995	2484
Applications for approval of plans of redevelopment	0	1	24	18	21
Applications for approval of proposed plans of subdivision and condominium	47	62	34	71	46
Applications for approval of official plan amendments	157	229	213	180	243
Appeals for amendment of restricted area by-laws	120	109	112	146	121
Appeals from Committee of Adjustment and Land Division Committees	2205	1793	1833	1704	1358
	5731	5611	5785	6114	4273

Approval of Capital Undertakings and the Imposition of Rates and Levies to Recover the Cost thereof

In 1980 the Board prepared a revised edition of a booklet on "The Role of the Ontario Municipal Board with respect to undertakings involving long term commitments by Ontario Municipalities and their Local Boards." This booklet was mailed to all Commissioners of Finance and the Treasurers of all regions, counties, and local municipalities in the Province to provide a better understanding of the Board's role and for assistance in providing the financial information required by the Board in this connection.

In order to avoid delay and to expedite the processing of applications for approval of capital expenditure, the Board establishes early in each year:

1. a capital expenditure quota for all regional municipalities and cities and the larger towns and townships that normally submit applications frequently in one year, and

2. a permissible debt limit for all other municipalities.

The following table shows the number of applications received by the Board in 1980 and the previous four years.

Year	Applications
1976	3056
1977	2608
1978	2536
1979	2364
1980	2426

Assessment Appeals and Miscellaneous Applications

In addition to the number of capital expenditure applications and applications under The Planning Act, the Board received the following appeals and applications in 1980 under the various statutes specified:

The Assessment Act	401
The Conservation Authorities Act	45
The Local Improvement Act	3
The Municipal Act	61
The Municipal Affairs Act	1
The Ontario Municipal Board Act	1
The Pits and Quarries Control Act	8
The Public Transportation and Highway Improvement Act	5
Special Legislation (Municipalities)	31
Municipal Elections Act	2
Municipal Franchise Act	1
Other	<u>72</u>
	<u>631</u>

Summary of Applications and Appeals

The following is a summary of applications and appeals to the Board for the years 1976 to 1980:

	1976	1977	1978	1979	1980
Restricted Area By-laws, Official Plan Amendments, etc.	3526	3818	3952	4410	2915
Committee of Adjustment and Land Division Appeals	2205	1793	1833	1704	1358
Capital Expenditure Applications	3056	2608	2536	2364	2426
Assessment Appeals and Miscellaneous	356	367	359	459	631
	<u>9143</u>	<u>8586</u>	<u>8680</u>	<u>8937</u>	<u>7330</u>

Board Hearings

Years	No. of Hearings	No. of applications dealt with at hearings
1976	1877	2325
1977	1996	2492
1978	2351	2959
1979	2366	3286
1980	2384	3135

Applications which do not require hearing are subject to review, consideration and decision by the Board. In 1980, the Board disposed of 7,824 matters which involved the preparation and issue of 7,357 Board Orders.

Board Decisions

Decisions of the Board of leading cases may be found in the Ontario Municipal Board Reports (O.M.B.R.) published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of decisions are also distributed by the Board to appropriate Government agencies and to various universities and law libraries for reference purposes. Copies of individual decisions may be obtained on request from the offices of the Board.

Appeals from Board Decisions

1. Divisional Court on matters of law and jurisdiction.
2. Petition to Lieutenant Governor in Council.
3. Application to Board for rehearing.

Boards and Commissions

Annual Report

The 75th Annual Report of the Board for the year 1980 is available from the Government of Ontario Bookstore.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G.C. Hewson

Vice-Chairman (part-time):

S.R.R. McNeil

Members (part-time): 80

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69 and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1. Complaints against real property assessment for the basis of municipal taxation in Ontario at the lowest cost to the taxpayer.
2. Appeals from the refusal of municipal clerks to amend the list showing school support for school board taxation.
3. The apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block.
4. When authorized by municipal by-law (or by way of an appeal from the decision of a municipal council) applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

The Regional Registrars of the Court are responsible for the processing and scheduling for hearing of complaints against assessments and the certification of the last revised assessment roll of each municipality in Ontario.

The Regional Registrar also schedules all appeals from the decisions of the Court to the County of District Court Judges within the Province under Section 55 of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1980 to March 31, 1981.

1. Court Sittings

During the year the Court sat for 2,750 days in various municipalities throughout the Province and heard and determined 130,404 complaints, appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Sections 44 and 52 of The Assessment Act and processed and scheduled appeals to the County or District Judge under Section 55 of The Assessment Act and applications and appeals under Section 636a of The Municipal Act.

During this period as in 1979-80, the Assessment Review Court experienced an increase over former years in complaints relating to all types of properties and in particular complaints relating to large industrial complexes and income producing properties such as apartment houses, office towers, shopping centres and major hotels all involving considerable amounts of assessment and municipal tax monies. Because of their complex nature, one such complaint can take a great deal of time to hear and dispose of. This has seriously affected the Court's productivity and the early disposition of complaints.

To assist in scheduling such complex complaints assignment hearings of the Court were held in Hamilton, St. Catharines, Ottawa, Chatham, Windsor, London, Mississauga, Kitchener and Toronto.

The District Municipality of Muskoka, The District of Parry Sound and the Town of Wasaga Beach were proclaimed at market value for assessment purposes during this period. In addition, 138 municipalities were re-assessed under the provisions of Section 86 of The Assessment Act resulting in a considerable increase in the number of complaints in these municipalities.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional seminars in London, Sault Ste Marie, Kingston, Kitchener, and Toronto.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Bracebridge and Toronto.

Clerks of the Court in the Grand River Niagara Region attended an instructional seminar in Hamilton.

3. Administrative Matters

During this period, the Court continued to review its practice and procedures and implemented changes where necessary in order to improve its efficiency in processing and disposing of complaints. A summary of Assessment Review Court complaints and appeals is set out at the end of this report.

The purpose of the Assessment Review Court is to hear and determine complaints relating to assessments throughout the Province as soon as may be practicable. With the increase in volume and complexity of complaints, the main difficulty in completing the hearings arises in scheduling and disposing of the complaints as soon as practicable so that the assessment rolls can be certified.

Program of Operations for the fiscal year 1981-82

1. The principal objective of The Assessment Review Court in the next fiscal year and in succeeding years will be to continue to improve the procedures for scheduling and hearing complaints to enable the assessment rolls to be certified as soon as possible.

2. The Assessment Review Court has implemented a new court scheduling and disposition system designed to improve the complaint handling process. This system has visual display terminals located in each of the Regional offices. Complaint information is keyed and verified through these terminals. In addition, an online inquiry function will be supported. Information about a property in question can be extracted from an assessment file and maintained on a complaint master file. Various management reports and statistics, together with notices of hearings, decisions and court records will be produced. A court scheduling system has been provided with the ability to handle early appearances, appeals and adjournments. Finally, a history sub-system will be included to reduce the costs of operation and to

maintain records of completed cases. This system became operational in December, 1980.

A policy submission on the Revision of Assessment Review and Appeal Procedures has been submitted to the Cabinet and is now the subject of review by the Justice Policy Committee of the Cabinet.

The main purposes of this submission are as follows:

1. To eliminate multiple "trials de novo" procedures at each level of assessment review and appeal. (Assessment Review Court, County Judge, persona designata, and the Ontario Municipal Board.)
2. To relieve County and District Court Judges from hearing quantum appeals in assessment matters and substituting for this level of assessment appeals procedure an appropriate administrative tribunal which would provide a final decision.
3. To designate the Divisional Court of the High Court of Justice as the Court to adjudicate on matters of law and procedure arising from the application of The Assessment Act.

Summary of Assessment Review Court Complaints and Appeals

	1978-79	1979-80	1980-81
Section 52 of The Assessment Act (I)	86,211	117,132	119,658
Section 42, 43 of The Assessment Act (II)	7,676	6,620	5,564
Sections 516, 547, 636a, 636b of The Municipal Act (III)	42,050	31,099	30,641
TOTAL	135,937	154,851	155,863

- Footnotes: (I) This section deals with complaints against annual assessment made under Section 40 of The Act.
- (II) This section deals with complaints against additional assessment made under Sections 42 and 43 of The Act.
- (III) These sections deal with applications and appeals relating to:
- (a) School support
 - (b) Apportionment of municipal taxes
 - (c) Cancellation, reduction or refund or municipal taxes
 - (d) Increase in municipal taxes by reason of clerical errors.

Boards and Commissions

Summary of Appeals to County and District Court Judges (Section 55 of The Assessment Act)

1978-79	1979-80	1980-81
14,547	13,951	14,806

Board of Negotiation

Chairman:
W.C. Dymond

Members:
J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
G.W. Swayze

Function

The Board of Negotiation was created by the provision of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Monthly Breakdown Fiscal Year April 1, 1980 – March 31, 1981

	Requests Received	Meetings Held
April	17	12
May	14	18
June	4	16
July	19	8
August	10	6
September	19	15
October	19	13
November	6	12
December	7	8
January	6	11
February	9	4
March	12	9
	142	132

Note: As of March 31, 1981 there were 23 files in process (4 of the 23 are to be scheduled and 19 are scheduled for meetings and waiting to be held)

Activity Report – Fiscal Year 1980 – 1981

Expropriating Party	Number of Applications
Corporation of the City of Belleville	1
Brampton	1
Brockville	1
Burlington	1
Cornwall	1
Hamilton	4
London	3
North Bay	2
Oshawa	1
Ottawa	1
Welland	2
Corporation of the Town of Richmond Hill	1
Corporation of the Township of Ekfrid	1
Glanbrook	1
King	1
Lake of Bays	1

Corporation of the County of Middlesex	2
Victoria	1
Corporation of the United Counties of Leeds and Grenville	2
District Municipality of Muskoka	1
Halton Region Conservation Authority	2
Ministry of the Environment	5
Government Services	1
Transportation and Communications	61
Municipality of Metropolitan Toronto	2
Ontario Hydro	8
Regional Municipality of Durham	3
Halton	5
Hamilton-Wentworth	9
Waterloo	1
York	8
Toronto Area Transit Operating Authority	1
Union Gas	7
	<u>142</u>

Two-Year Follow-Up Report Fiscal Year 1979 - 1980

Number of requests for meetings (1979-80)	162
Number of settlements reported following negotiations in the period April, 1979 to March 31, 1980	35
Requests for meetings — cancelled	7
Balance to be surveyed by Two-Year Follow-Up	<u>120</u>
This Report is based on replies to 120 Questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1979-1980 meetings.	
Questionnaires mailed	120
Replies received	104
Unanswered	16
Settlements (Board of Negotiation's Recommendation a factor)	47
Proceeded to, or intending to proceed to Land Compensation Board	24
Still Negotiating	11
In Abeyance, pending, not presently being negotiated	<u>22</u>
	120

Land Compensation Board

Chairman:

R. M. McGuire (Deceased September, 1980)

Vice-Chairmen:

R. M. Grant, Q.C. (Retired June 30, 1981)

J. Worrall, Q.C.

S. R. Cole

Members:

G. Campbell, Q.C.

J. Dobbs

G. M. Hobart

D. W. Middleton

Registrar:

C. E. Warner

Established

Under the authority of The Expropriations Act, December 1, 1970.

Function

Arbitration tribunal to determine compensation to be paid in the expropriation of property in the Province.

Reduction of Presiding Chairmen has resulted in an increase in the waiting period from, insurance of Appointment to hearing date, of one to two months, and has contributed to the increase in the number of applications outstanding.

Notices of Arbitration filed 141

Applications Outstanding as at March 31, 1980 312

Applications Outstanding as at March 31, 1981 355

Boards & Commissions

Agencies, boards and commissions operating within this Ministry and which have financial and administrative relationships with the Ministry:

Advisory Committee of Public Trustee on Investments

Assessment Review Court

Board of Negotiation

Criminal Injuries Compensation Board

Finance Committee for the Investment of Court Funds

Land Compensation Board

Background Paper

Ontario Law Reform Commission
Ontario Municipal Board
Statutory Powers and Procedures Rules
Committee.

Agencies, boards and commissions connected with or working with this Ministry but who do not have any financial or administrative relationship with the Government:

Advisory Committee on Legal Aid
Association of Professional Engineers of Ontario
Judicature Act Rules Committee
Judicial Council for Provincial Judges
Law Foundation of Ontario
Law Society of Upper Canada
Provincial Courts (Family Division) Rules
Committee
Registration Board of Ontario Association of
Architects.

The Occupiers' Liability Act and The Trespass to Property Act

For some time two different, but related, areas of law have been in need of reform: The law governing an occupier's liability to those who come onto his land and the law protecting an occupier from trespass to his land. Dissatisfaction with the former gave rise to The Occupiers' Liability Act. Dissatisfaction with the latter gave rise to The Trespass to Property Act. This background paper will explain the background and rationale for each of these pieces of legislation.

Occupiers' Liability Act

Since at least the beginning of the 19th century, an occupier of land, whether owner or tenant, has had a duty to take care that persons entering his land are not injured. Until September 8, 1980, the extent of that duty was determined by judge-made common law. That common law was developed by the courts primarily in the 19th century, and is a good example of the type of law developed by 19th century courts. That law categorized entrants according to the purpose for which they were on the land, and provided a specific duty of the occupier towards each category of entrant. If real life in the 20th

century had come as neatly packaged as the law of occupiers' liability, there would have been no need for change to that law. Unfortunately, life is often messy. Great changes in attitudes have occurred in the 20th century, the most important of which from the perspective of occupiers' liability has been great concern for injured persons. This concern, and the availability of insurance at reasonable rates to spread loss, accounts for the inability of the category system of classifying entrants to bring about results seen as fair by 20th century standards. To avoid unfair results, the courts modified all of the categories.

Since the 1974 decision of the Supreme Court of Canada, in the case of *Mitchell v. Canadian National Railway Company*, the courts have made significant changes to the law. The category system for determining the liability of occupiers died because of the dissatisfaction with it of the courts that created it. It died of the twin fatal disease of uncertainty of characterization, and uncertainty as to the standards of care applicable to the categories. Pigeon-holes are only useful if you know where to place any object and are satisfied with the effect of placing it there. The category system that had served to provide some certainty as to the likely outcome of litigation and, thus, to prevent needless litigation, no longer served that function. Restoring the category system to its former strictness was not possible since most of us no longer accept the values on which it was based.

The general direction of the future law had become relatively clear by the middle of the 1970s. The Ontario Law Reform Commission, in its Report on Occupier's Liability, (1972), recommended the enactment of legislation imposing on occupiers one common duty of care. The uniform Occupiers' Liability Act, (1972), proposed by the Uniform Law Conference of Canada, also took this approach. Scotland has had a law imposing a common duty of care on all occupiers since 1960, and British Columbia since 1974.

There was no doubt of the need to create a duty of care, and a standard of care, for occupiers that would avoid the need to resort to ranking claimants in a rigid category system. It was desirable also that the new duty of care should require the occupier to observe a standard that reflects the actual consideration of reasonable

individual occupiers when considering the safety of persons entering their land.

The major issue, that arose in considering the standard to be imposed by statutory law, was the issue of whether new law should require occupiers to have the same duty of care towards trespassers as towards other entrants. The Scottish legislation applies to all entrants, including trespassers. The English, New Zealand and Alberta legislation exclude trespassers from the classes to whom the duty of care is owed. The Ontario Law Reform Commission, and the Uniform Law Conference of Canada, after struggling with the alternatives, concluded that the same duty of care should apply to all classifications of entrants.

The issue of trespassers was troubling. Under common law, a trespasser is someone who is merely on the property of another without the consent of the owner of the property. It is irrelevant, under the common law of trespass, (as opposed to the offence of trespass to property), that the entrant does not know the property is private. It is not relevant that the entrant is unable to know that the property is private. Many trespassers are innocent of any real wrongdoing. A strict rule that the common duty of care is not owed to a trespasser would deny compensation to a curious child who is injured on a construction site where no precautions had been taken to prevent persons from entering the premises. A strict rule against trespassers would deny compensation to a pedestrian who is injured, as a result of an unmarked water main excavation on property that was frequently crossed by pedestrians.

The general exclusion of trespassers from the class to whom the ordinary duty of care applies would have resulted in failure to deal with the major inadequacy of the 19th century category system. The courts would still have been forced to create a fiction whereby an entrant, who is a trespasser, is, by some means, reclassified as a lawful entrant, where the facts were such that it would be unfair to deny the trespasser compensation.

Before legislation dealing with occupier's liability was brought forward, the Supreme Court of Canada came down with the decision in *Veinot v. Kerr-Addison*, a case that radically altered the climate for change and had a profound affect on

the legislation of the province. It is also a case that highlights the difficulties faced by a court attempting to use the old category system in an unusual fact situation. Both the facts and the decision of the Supreme Court of Canada are interesting.

The plaintiff, 37 years of age, and his wife, on one snowmobile, accompanied by another married couple on another snowmobile, set out from their home for an evening of healthful recreation through the woods and across lakes of Northern Ontario. They went along well travelled snowmobile trails, from Larder Lake to Crosby Lake, along a creek to Beaver Lake, to Bear Lake, to a hydro right of way along which were many skidoo trails, down an old logging road "which was well skidoo packed", to a wide, hard packed, well ploughed road on which they travelled until the plaintiff, Mr. Veinot, on the leading snowmobile, struck a rusty pipe stretched across the road, at face height, and sustained very serious injuries. The accident occurred on March 16, 1970. Mr. Veinot had owned snowmobiles since 1966. He had been for three years the President of the Larder Lakes Snowmobile Club, one of the purposes of which was to maintain law and control snowmobiles in the town of Larder Lake. The machine on which Mr. Veinot was riding, a Bombardier 640 Nordic, was not a racing machine. At the time of the accident, it was travelling at a moderate speed of 15 to 20 miles per hour. It was equipped with the ordinary snowmobile lights and also with spot fog lights to improve visibility. The jury found that Mr. Veinot did not fail to take reasonable care for his own safety.

The pipe which Mr. Veinot struck was two inches in diameter, supported by unpainted posts located off the road, and invisible at night due to the background of trees. The pipe had been erected some 20 years earlier to prevent the movement of unauthorized vehicular traffic to the defendant company's powder magazine not far from the community of Virginiatown. The ploughed road "seemed to be well travelled"; looked like a public road; and had no markings to indicate that it was not a public road. Mr. Veinot had no idea that he was on private property when he drove along the ploughed road and according to his evidence, which was not challenged, he would not have continued along it if he had known it was private property.

Background Paper

The jury, composed of persons in the area, found that Mr. Veinot was on the land with implied permission of the occupier. It found that the defendant failed to take reasonable care to avoid injury to persons traversing the area, there being no distinguishing warnings of the location of the pipe against the roadway from either the east or west approach to the pipe or on the pipe itself; and that the plaintiff did not fail to take reasonable care for his own safety.

The company appealed to the Ontario Court of Appeal. The Court of Appeal found that the evidence in the case fell short of that required before an inference of implied licence could be drawn. It found in favour of Kerr-Addison.

Peter Veinot appealed to the Supreme Court of Canada. Seven of the nine justices decided that there was a new duty of common humanity to replace the traditional duty of occupiers towards trespassers. However, if the case had been decided only by the seven justices who dealt with the new duty of common humanity, Peter Veinot would have lost. Three of the justices said that Kerr-Addison had breached the duty and four said that Kerr-Addison had not breached its duty of common humanity. Peter Veinot won because five of the justices said that even if there was no new duty of common humanity, the jury findings should not have been upset by the Ontario Court of Appeal, and there was sufficient evidence to justify a finding by the jury of an implied licence.

The reports of the decision in Veinot and Kerr-Addison in all rural magazines and press, fanned the fears of rural occupiers. The desirable growth of outdoor recreational activities has had some undesirable side effects. Urban residents have flocked in ever-increasing numbers to the countryside. In the countryside, farmers and other occupiers of land have become fearful of being sued for damages by persons who might be injured while engaged in recreational activities on their land. With the Veinot case, occupiers of rural land felt that the decision might herald a real threat to their interest.

The Legislature acted quickly to allay the worst of these fears by enacting The Motorized Snow Vehicle Act, 1974. That Act, among other things, protects occupiers of land from liability

for injuries to snowmobilers who do not pay a fee, whether or not these motorized snow vehicles are permitted on the land, unless the occupier creates a danger with the deliberate intent of doing harm or damage to the entrant, or the occupier does a wilful act with reckless disregard of the presence of the entrant, (the old standard for trespassers). Fear of liability for injuries to persons entering land on snowmobiles was greatly reduced by the passage of the Act, but, with respect to other recreational activities, this fear remained an important concern of occupiers of land in every part of the province.

It was clear that occupiers' liability legislation that did not address the issue of liability for injury to recreational users of rural land would not be acceptable. The Ontario Trails Council appointed by the Minister of Natural Resources in 1975 showed that landowner concerns over liability were shared by recreational users of rural land. The Council was a group of persons drawn from all parts of the province and representative of all interests affected by trails. It held hearings throughout the province, and received briefs from persons and organizations interested in recreational trail use. It submitted its final report in August of 1977. The first recommendation was with respect to civil liability. It began:

"The foremost impediment to broader recreational trail use and development in Ontario is the current responsibility, before the law, of the landowner or occupier towards people, invited or trespassing, on his property."

The thrust and direction of the Council's recommendations and comments could not be ignored. Voluntary trail development in Ontario could not continue and expand unless the actual occupiers of land were protected from liability to those who were using land without fee for trail or other recreational activity. The fear of liability was an impediment to landowner agreements with recreational trail clubs for trail development. It is important to bear in mind that the impediment was fear. There were few, if any, actual law suits by recreationalists against occupiers of land. However, the fear of occupiers was not groundless. Under the old common law, the person who actually permitted someone to use his land for recreation was in a worse legal position than the person who barred entry, or who did nothing.

In August, 1977, following the Report of the Ontario Trails Council, it appeared that two important social values were in conflict. On the one hand, there was a need to reform and simplify the law of occupiers' liability along the lines of negligence law, as recommended by the Ontario Law Reform Commission. On the other hand, there was a need to ensure that a new, healthy public interest in outdoor recreation of all kinds would not be frustrated by the closing off by private owners of their land, that was suitable for recreational activities, because of fear of liability for injuries.

Large-scale programs to resolve the conflict of values were unacceptable. More important, there is at the root of the issue of occupiers' liability when applied to much outdoor recreational activity, a fundamental contradiction between the major objective of occupiers' liability law and the attraction of most outdoor, recreational activities. The underlying objective of the occupiers' liability law is to make the world safe. The call of nature appeals to that part of us which is primitive and risk-taking.

Most premises suitable for recreational activities cannot be rendered safe for those activities by an occupier without detracting from the very essence of most recreational activities. A rock climber would be dismayed to find a staircase up a craggy precipice. A hiker would be annoyed to find a gravelled path replace the twisting trail through the wilderness. If the wilderness is to be made safe for many individuals in our society, it will be made totally unattractive to those of us most active in recreational pursuits. In most cases, persons active in outdoor recreation on private land, who do not pay a fee, do not want the wilderness worked over, to make it reasonably safe for those without the skill and knowledge to take care for their own safety.

Experienced outdoor recreationalists know that the safety of persons who engage in recreational activity on most rural land depends, to a large degree, on their assuming that they bear the risk for injuries. Mother nature can be mean and treacherous. Survival often depends on knowledge, skill and advanced preparation. So long as the public

believe that someone is taking care for their safety, there is little incentive to obtain the necessary knowledge and skill and apply the forethought required to enhance the chances of survival in these circumstances.

Research indicated that no other jurisdiction had legislation that met the needs of Ontario residents for a law that created a statutory duty of care owed by occupiers to entrants following the general approach of negligence and that also protected occupiers of rural land from liability to recreational entrants who did not pay a fee.

There is little point in elaborating in detail on the sometimes agonizing process of working towards the development of what now appear as subsections 4(3) and (4) of The Occupiers' Liability Act, 1980. There was much trial and even more error. In the process much assistance was received from the Ontario Federation of Agriculture, officials of the Ministry of Natural Resources, former members of the Ontario Trails Council, and many others.

In keeping with the Ministry's policy that where changes are contemplated to laws that affect the lives of significant numbers of residents, individuals and groups should have an opportunity to express their views before legislation proceeds, the proposals for change and draft legislation were published in a Ministry Discussion Paper in May, 1979. The response from agricultural associations and recreational groups was overwhelmingly in favour of the approach taken to occupiers' liability. The response by other segments of the community was also positive. That is not to say, that there were not suggestions for improvement of the Draft Bills contained in the Discussion Paper. There were many suggestions for improvement, some of which found their way into the new law. The response was so favourable, that a Bill was introduced in the fall of 1979 and, following a week of public hearings by the Standing Committee on Resources Development, was reported for enactment, (and enacted in May, 1980). It was proclaimed in force on September 8, 1980.

The Legislature's attempt to reform and simplify the law of occupiers' liability, while protecting outdoor recreational opportunities, is The Occupiers' Liability Act, 1980. The Act abolishes the common law of occupiers' liability. It creates a

Background Paper

basic duty of occupiers, as follows:

An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable, to see that persons entering on the premises, and the property brought on the premises by those persons, are reasonably safe while on the premises.

Section 4 of the Act is directed towards the recreational use of premises. It provides that the basic duty should not extend to four types of entrants. Those types of entrants either voluntarily accept the risk of injury or are deemed to accept that risk. However, even when an entrant voluntarily assumes the risk, the occupier owes a duty to the person, to not create a danger with the deliberate intent of doing harm or damage to the person or his property, and to not act with reckless disregard of the presence of the person or his property. This reduced duty of care is identical to the common law duty that was formerly owed to a trespasser.

The voluntary assumption of risk was selected as the basis for a diminished duty on the occupier, because it is a relatively straightforward principle for most people to grasp. Voluntary assumption of risk is the assumption of personal responsibility. Personal responsibility is something that recreational users of private land in Ontario have implicitly understood and which new recreational users must be taught.

In developing the approach used with respect to recreational entrants, it was necessary to take great care to ensure that, providing for diminished responsibility of occupiers to non-paying recreational entrants, did not create unreasonable risks for other members of the public. This was done in two ways. First, the classes of entrant to whom this restricted duty applied were limited. It applies to trespassers on rural land where entry is prohibited under The Trespass to Property Act. It applies to entrants on most rural land where the occupier has posted no notice in respect to entry, and has not otherwise expressly permitted entry. Most important, it applies to any non-paying entrant, including a child, who uses rural land for recreational purposes. The most difficult of the issues, with which the Legislature had to deal, was the issue of whether the deemed voluntary assumption of risk should apply to children as well as adults. They decided that it should. It was felt that the rural occupier of land could not

take greater care to protect children than he could to take care to protect adults. If the rural occupier's duty was higher towards children than towards adults, the rural occupier would simply prohibit entry to his premises.

It should be noted that rural occupiers of land are subject to the ordinary duty of reasonable care towards employees, houseguests and others who enter with permission, to use the premises for other than recreational activities. It is only in connection with trespassers and permitted recreational entrants that the rural occupiers have a diminished duty of care.

The second method for ensuring that the public is not endangered by the diminished duty of care of certain occupiers, is the specification of the classes of premises to which it applies. Subsection 4(4) of the Act specifies the classes of premises:

- Rural premises that are:
 - used for agricultural purposes, including land under cultivation, orchards, pastures, woodlots and farm ponds;
 - vacant or undeveloped premises;
 - forested or wilderness premises;
- Golf courses when not open for playing;
- Utility rights of way in corridors, excluding structures located therein;
- An open allowance;
- Private roads reasonably marked by notice as such;
- Recreational trails reasonably marked by notice as such.

It should be noted that assumption of risk by an entrant does not extend to structures located on utility corridors.

Trespass to Property Act

The Chief proponents for changes to The Petty Trespass Act were the Ontario Federation of Agriculture and the school boards.

Early in the history of Ontario, it was found that a civil lawsuit was too cumbersome a method for enforcing an occupier's right to exclude trespassers. A relatively quick, cheap and intelligible remedy was necessary. The first Petty Trespass legislation was enacted in 1834,

legislation which does not replace the common law civil remedy, but co-exists with it.

Part of the problem with The Petty Trespass Act, and its use for contemporary purposes, was the cryptic style in which it was drafted. It did not spell out, for the uninitiated, the various aspects of trespass which could give rise to a charge. It was desirable, then, to rewrite the offence section in language more intelligible to non-lawyers, since trespass prosecutions are often brought by citizens in their private capacity.

A second major aspect of the revision was to give greater protection to land under cultivation. Farm businesses represent substantial investments of capital. Trespass to orchards and land under cultivation results in substantial business losses to the agricultural community. Vandalism and theft are not uncommon. While theft, whether of crops or livestock, is a criminal offence and is prosecuted as such, there is great difficulty in proving such thefts. It appeared desirable to take steps to deter trespass in order to reduce the opportunity for theft and vandalism. The old Petty Trespass Act required that before a person could be prosecuted for entry on land under cultivation, he must have notice that trespass is prohibited or the land must be enclosed or posted with signs. Modern agricultural techniques, to maximize crop yields, have resulted in the removal of existing fencing from fields and orchards. Maintaining the posting of large open areas is impractical. Given heightened awareness by urban residents of the economic aspects of agriculture, it seemed realistic to expect persons to stay off lands under cultivation, whether or not there was notice prohibiting trespass.

The third major problem was to ensure occupiers' privacy and control of recreational activities. One of the basic hypothesis upon which the Trails Council Report was based, was the idea that if occupiers of land are protected from the possibility of liability for injuries on their land and given effective legal tools to protect their privacy and choices with respect to their land, recreational opportunities could be enhanced. The Bruce Trail experience clearly indicated that the opposite was true. The experience of those of us who have spent much time in the countryside indicated that the hypothesis of the Trails Council was correct. It was, therefore, imperative that occupiers of land

continue to have every right to choose for themselves how far they wished to share the use of their land with others, if at all.

The Petty Trespass Act prohibited entry on lawns, gardens and enclosed lands without notice. It provided that entry could be prohibited from other premises through the giving of oral or written notice in the posting of signs on the land. It was desirable that occupiers' rights to privacy should be enhanced. The misuse of trails has been a source of aggravation to occupiers of land and to trail organizations. A few ignorant and inconsiderate individuals should not be permitted to destroy the recreational activities of others. It was desirable to deter irresponsible behaviour. Insofar as the offence of trespass could be used to deter irresponsibility, it was clear that occupiers and recreationalists alike would wish this to be done.

In developing the legislation, the first problem was not difficult to tackle. The offence of trespass was clarified, and prosecution facilitated, by replacing the ambiguous words of the existing Petty Trespass Act with three specific offences:

- (1) without express permission, the proof of which rests upon the accused, entering premises where entry is prohibited;
- (2) without express permission, the proof of which rests upon the accused, doing an activity on premises where the activity is prohibited;
- (3) refusing to leave the premises after being directed to do so.

While there were certain legal hurdles that had to be addressed in taking this approach, such as coping with rights of entry conferred by law, the task was relatively straight-forward.

The second problem, was to protect agricultural businesses without thereby excluding entry without notice on all rural land in the province. It was decided that prohibiting without notice on land under cultivation would not prohibit without notice entry on land suitable for recreational purposes in Northern and Eastern Ontario, while it would protect the vital interests of agriculture in predominantly agricultural areas.

Another agricultural interest that needed continued protection, was pasture land. Under The Petty Trespass Act, it was an offence to enter without permission on "enclosed lands." In 1834,

Background Paper

when the first Petty Trespass legislation was enacted, land that was fenced was recently fenced, and there could be no doubt of what was intended. Today, however, many stone and stump fences are merely the remnants of long-deserted homesteads. Some of these fences lie in, or across, publicly acquired land on which entry is invited.

It was desirable to clarify the type of fencing that would prohibit entry. In this connection, it appeared that most experienced persons, who respected the private rights of occupiers, knew the type of fencing that was intended to exclude them. They were responding to the manifested intention of the occupier. The approach that adopted in The Trespass to Property Act, was that entry be prohibited without notice where land is enclosed in a manner which indicates the intention of the occupier to keep persons off or to keep animals on the premises. Thus, the fencing around a pasture, or the fencing around a swimming pool, would prohibit entry without notice, but the remnants of a stone fence, surrounding now vacant land, would not.

The third problem, that of ensuring occupier's privacy and control of recreational activities, called for some new approaches in legislation. It must be recognized that it is often difficult to determine whether one is a trespasser. Entry is invited onto private property, such as shops, shopping plazas and service stations. Even in rural areas, a person may begin a walk on public land, over which he has a right to entry, and cross, without warning, onto private property where his presence is unwelcome. Except where the factual situation must make it clear to an entrant that entry is prohibited, for example, cultivated land or properly fenced land, it is only proper that before a person may be prosecuted for trespass, he must have a means of knowing that he is a trespasser. The classes of premises on which entry is prohibited without notice must be limited to those on which the public should know better than to enter without permission.

It also appeared desirable to attempt to implement a Ontario Trails Council recommendation that there be a positive entry system onto land, that is, the posting of a sign indicating that a recreational activity is permitted should be sufficient to prohibit all other activities. However, it was socially unacceptable to prohibit entry onto all premises without notice. A scheme which

prohibited entry on all premises without written or signed notice would result in most persons living in urban society being liable for the offence of trespass every day. Such a policy in the law would also be impractical in Eastern and Northern Ontario, therefore, it was necessary to create the positive entry system recommended by the Ontario Trails Council without going to such socially unacceptable lengths. The method of doing this was to specify the legal meaning of signage of a positive nature. The Act now provides that a sign indicating that a particular activity is permitted means that all other activities are prohibited. It provides that a sign stating the name of an activity, or containing a graphic representation of an activity, is a sign indicating that the activity is permitted. So far as I'm aware, no other jurisdiction has attempted this approach.

With respect to trails, a positive entry concept was practical. Certain activities are incompatible with others and the permitted uses can be signified. However, where there is a desire to open large tracts of land to general recreational use, with a few exceptions, it was decided that it would be far less expensive, and more convenient, to list the prohibited rather than the permitted uses. To accomplish this, the legislation provides that a sign indicating that particular activity is prohibited means that all other activities are permitted. It also provides that a sign stating the name of an activity, or containing a graphic representation of an activity with an oblique line drawn through the name or through the representation, means that the activity is prohibited.

These are innovative ideas, that have not, as yet, been fully tested. They permit the occupier of land complete control over the activities permitted on his premises. They permit experimentation which creates forms of signage, because these general concepts do not rely on regulated signs. Nevertheless, they build upon styles of signage which are well known through their use on highways.

It was felt desirable to go beyond the use of signs. The posting and maintaining of signs, whether containing written or graphic representation, can be difficult and expensive. Signs are vulnerable to the elements and to vandals. There seemed to be a need for a method of giving notice that entry is prohibited which is inexpensive to establish and maintain. The suggestion for a colour-marking

system originally came from an Ontario resident in the Hamilton-Burlington area.

When the concept of colour marking was refined, it was decided that legal meaning should be given to two colours, red and yellow. Markings could be made with paint, or other low cost materials, and could be placed on existing features of the land, such as trees, remaining sections of fencing, or the tops of posts. After consultation with officials in the Ministry of Transportation and Communications, it was decided that it would be sufficient if each marking was 10 centimetres in diameter, and placed so that a marking was clearly visible in daylight under normal conditions from the approach to every ordinary point of access to the land. Where entry is prohibited to open areas, it was decided that it was sufficient if markings were placed so that one marking could clearly be seen from another.

In connection with the red and yellow markings, the Ontario legislation is innovative. Nevertheless, it is based on international meanings for the colours.

All of the innovation in the world would be of little value, it was felt, unless there were teeth in the legislation. While it is a simple matter to increase a fine from \$100 to \$1,000, this did not seem to be an adequate answer for the particular type of prosecution. As noted earlier, trespass prosecutions are frequently brought by private individuals. Few citizens would be willing to pay the additional costs in policing and prosecuting that would be necessary to provide for the public prosecution of most trespass offences. While most people strenuously argue for public enforcement, when presented with the potential tax bill for such a policy, they realize that a balance must be drawn.

It was thought desirable to take the special nature of private prosecutions into account when developing The Trespass to Property Act. The maximum fine was raised from \$100 to \$1,000. However, two additional features that put "teeth" in the Act are even more important. The first of these is the provision for compensation for damages. It is very unusual, in our law, to combine both a criminal-like provision with a civil compensation provision. Under The Petty Trespass Act, there was no provision for awarding damages to the owner or occupier. As stated earlier, fines are payable to the Treasurer of Ontario. To recover

damages, the occupier formerly had to bring action in the Small Claims, County or Supreme Court.

Even unintended instances of trespass can result in damage to the occupier. For example, horseback riding across fields may result in damage to crops. It seemed reasonable to empower the court to assess damages against a trespasser after a plea of guilty or on a conviction. One thousand dollars seemed an appropriate limit for a summary procedure such as the prosecution under The Provincial Offences Act. If damages in excess of \$1,000 were occasioned, a civil action appeared appropriate.

It also seemed desirable to provide that where a private prosecution was successful, the defendant would be liable for the occupiers' reasonable costs in prosecuting. The provision could be used by trail associations and occupiers faced with serious problems of improper trail or other recreational use. The occupier of land permitting the recreational activity could appoint members of the association to be his agents for the purpose of prosecuting persons who abuse the recreational privileges. Because persons convicted would be liable for the reasonable costs of the prosecution, a trail or other recreational association could retain counsel, or an experienced agent, to prosecute. It is likely that a few successful prosecutions would be sufficient to deter improper trail use.

The proposals, with respect for Trespass to Property Act like those concerning The Occupiers' Liability Act were contained in the Ministry's Discussion Paper on May, 1979. They too received public support and were passed into law in May, 1980 and came into force on September 8, 1980.

It is too early to know whether these two pieces of legislation will accomplish the many objectives of the Ministry. There are some indications that the legislation will be effective. However, the effects of laws are in some respects like the ripples caused by a rock thrown into a pond of water. It is impossible to predict all the things that will be affected.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anglican Church of Canada Act, 1979
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Law Reform Act, 1977
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing and Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Disorderly Houses Act
Dominion Courts Act

Escheats Act
Estates Administration Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Family Law Reform Act, 1978
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Innkeepers Act
Interpretation Act
Interprovincial Subpoenas Act, 1979

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act
Minors Act
Minors' Protection Act
Mortgages Act

Negligence Act
Notaries Act

Occupiers' Liability Act, 1980
Ontario Law Reform Commission Act
Ontario Municipal Board Act

Appendix

Partition Act	Unconscionable Transactions Relief Act
Partnership Act	Unified Family Court, 1976
Pawnbrokers Act	University Expropriation Powers Act
Perpetuities Act	
Powers of Attorney Act, 1979	Variation of Trusts Act
Proceedings Against the Crown Act	Vendors and Purchasers Act
Professional Engineers Act	Vexations Proceedings Act
Property and Civil Rights Act	Vicious Dogs Act
Provincial Court (Civil Division) Project Act, 1979	
Provincial Courts Act	Wages Act
Provincial Offences Act, 1979	Warehousemen's Lien Act
Public Accounting Act	Warehouse Receipts Act
Public Authorities Protection Act	
Public Halls Act	
Public Inquiries Act, 1971	
Public Institutions Inspection Act, 1974	
Public Officers Act	
Public Officers' Fees Act	
Public Trustee Act	
Quieting Titles Act	
Reciprocal Enforcement of Judgments Act	
Reciprocal Enforcement of Maintenance Orders Act	
Regulations Act	
Regulations Revision Act, 1979	
Religious Institutions Act	
Religious Organizations' Lands Act, 1979	
Replevin Act	
Sale of Goods Act	
Settled Estates Act	
Sheriffs Act	
Short Form of Conveyances Act	
Short Form of Leases Act	
Short Form of Mortgages Act	
Small Claims Courts Act	
Solicitors Act	
Statute of Frauds	
Statutes Act	
Statutes Revision Act, 1979	
Statutory Powers Procedures Act, 1971	
Succession Law Reform Act, 1977	
Summary Convictions Act	
Surrogate Courts Act	
Ticket Speculation Act	
Time Act	
Trespass to Property Act, 1980	
Trustee Act	

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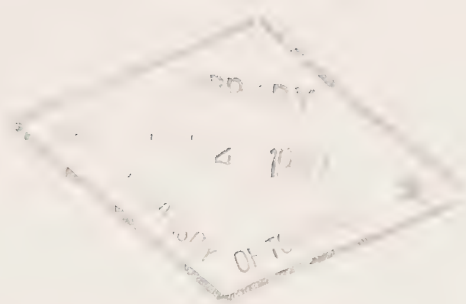


Ministry of the
Attorney
General

Government
Publication

annual report

1981-82



To His Honour the Lieutenant Governor in Council

May it please Your Honour:

It is my pleasure to present to your Honour the Annual Report of the Ministry of the Attorney General for the year 1981-1982.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



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Programs and Administration Division

Boards and Commissions

Ontario Law Reform Commission
Criminal Injuries Compensation Board
Ontario Municipal Board
Assessment Review Court
Board of Negotiation
Land Compensation Board
Other Boards and Committees

Appendix

Acts Administered by the Ministry
of the Attorney General

Letter from the Deputy Attorney General

October 27, 1982

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
18th Floor, 18 King Street East,
Toronto, Ontario.
M5C 1C5

Dear Mr. Attorney:

It is my privilege on behalf of the staff of the Ministry to submit for your consideration our eighth Annual Report setting forth the operations of our Ministry for the year ending March 31, 1982.

The proclamation into force of the Constitution Act, 1981, will complete our country's negotiation of constitutional renewal and provide a new context for the development of our law.

Law reform continues to be a major responsibility of the Ministry through both statute revision and judicial interpretation in criminal, civil and constitutional law where our counsel are continually engaged on behalf of the Crown in right of the Province. The growth of the public demand on the administration of justice continues unabated, with lengthier proceedings being an even greater factor than increasing caseloads as people seek to resolve their conflicts in courts at every level. Similarly, the provision of legal services to the government has continued to place more demands on our staff as the administration of government programs and services becomes more complex in both content and relationships. It is hoped that the detail of this report will reflect our discharge of these responsibilities in an effective manner, notwithstanding the necessary constraints on resources that we face with all ministries of government.

In an age of high technology and the wonders of micro-processing, our responsibilities are still primarily dependent on the human resources for the quality of justice and law to which the people of the Province are entitled. Technology will always assist them, but it can never replace the

human qualities the judiciary, the law-makers, the juries, the counsel and all the Public Servants bring to their responsibilities. In submitting this Annual Report, I am pleased to be able to assure you of the unfailing support and dedication of the Public Servants in the Ministry with whom I have had the very real pleasure of working over the past year. All of which is respectfully submitted for your consideration.

Yours very sincerely,

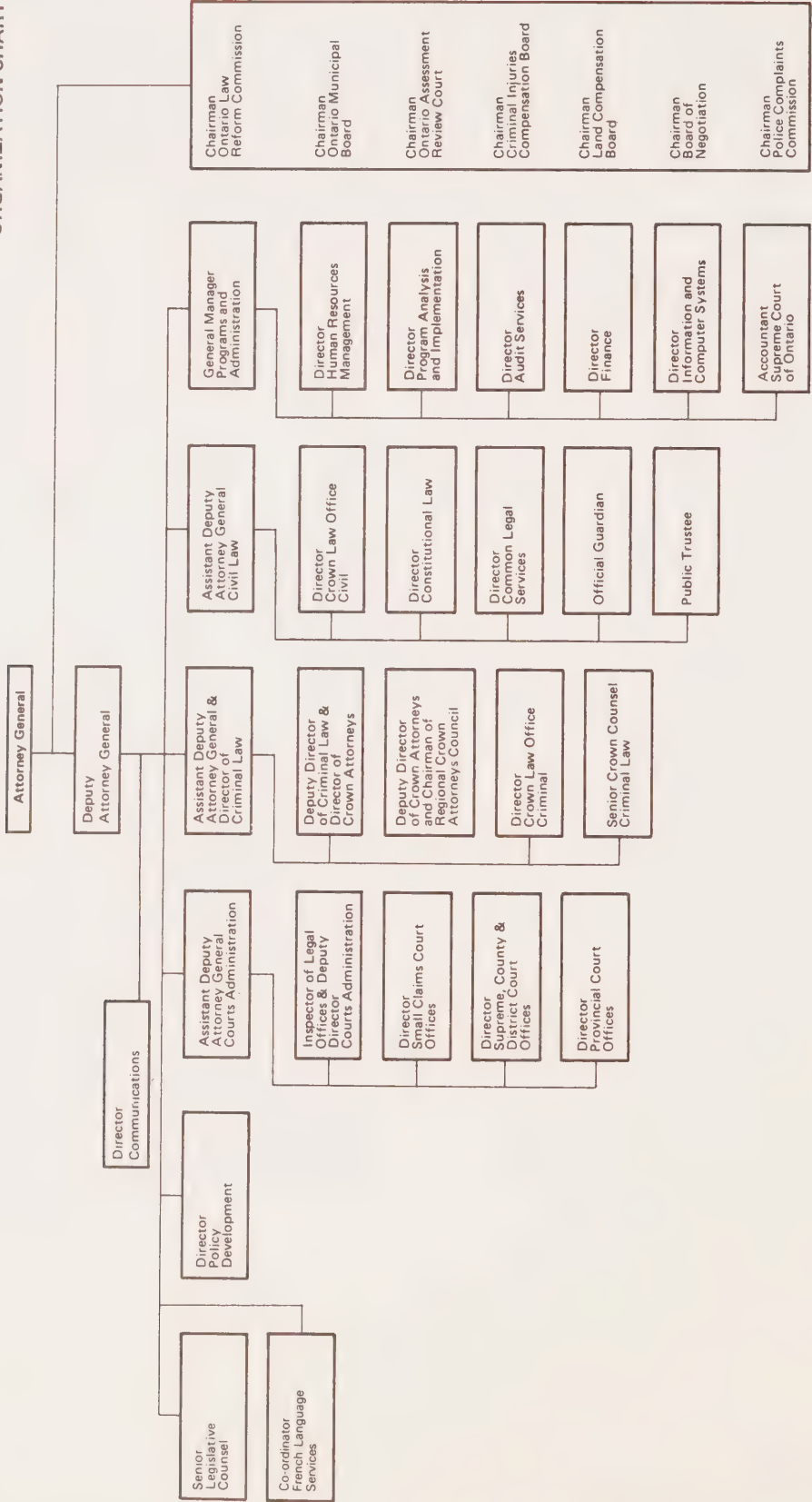


A. Rendall Dick,
Deputy Attorney General.



The Ministry of the Attorney General

ORGANIZATION CHART



COMMUNICATIONS BRANCH

David Allen,
Director

The Communications Branch is responsible for the preparation, publication and distribution of booklets, pamphlets, films, news releases, statements, speeches and other material to explain Ministry proposals, programs and legislation. It also handles daily inquiries from the news media and public. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters. The Branch reports directly to the Deputy Attorney General.

The Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the administration of justice in general.

During the 1981-82 fiscal year, the Ministry co-operated with other ministries on two major multi-media campaigns aimed at reducing traffic fatalities.

In the early fall of 1981, the Ministry, along with the Ministries of Transportation and Communications, Solicitor General and Health, produced radio announcements and a poster urging motorists to use seatbelts. The campaign featured an endorsement of seatbelts by Steve Podborski, Canadian downhill ski champion and a "seatbelt survivor".

The poster was displayed in all L.C.B.O. outlets and distributed to police forces throughout Ontario for display and use in road safety programs. It was so popular that a reprint was necessary in the spring of 1982. The radio announcements continued to receive free broadcasts on many stations long after the period of paid advertising finished.

In December, 1981, the Branch and the Ministry of the Solicitor General shared the cost of a fourth annual campaign against drinking and driving. A hard-hitting poster entitled "Feeling No Pain", for display in bus shelters and L.C.B.O. outlets, and three, 30-second radio announcements were the basis of this enormously successful effort. Attempts to publicize the campaign through a news release and other contacts with the news media resulted in widespread coverage and editorial comment on the issue of drinking and driving. The publicity

captured was worth many, many times the amount spent on paid advertising. This campaign sparked international interest and won awards in both Canada and the United States.

The Branch was involved in producing a number of new publications informing the public of legal rights and obligations.

A pamphlet produced to explain what the law requires of "Good Samaritans" received widespread distribution through such groups as the Red Cross, St. John's Ambulance and Heart Foundation. A new pamphlet on compensation for victims of crime was prepared ready for printing, and preliminary work was done on a pamphlet for witnesses. The Branch also worked with the Ministry's co-ordinator of French-language services to produce a 68-page English/French handbook of legal terminology.

Demand remained high for earlier publications on family law, small claims court, minor offences, and property protection and trespass. Several were reprinted.

FRENCH LANGUAGE SERVICES BRANCH

Etienne Saint-Aubin
Co-ordinator

This Branch was established in August of 1979 to give impetus to the Ministry's program on French-Language services. In order to facilitate access to various branches and agencies of the Ministry and to stress the importance of the program, the Co-ordinator of French-Language Services reports directly to the Deputy Attorney General.

Significant strides have been made in reflecting the duality of Canada by enshrining in Ontario law and practice fundamental rights with respect to the use of the French language in the province's system of justice. The course chosen has been a gradual approach which has taken into account the need to establish the necessary support systems.

Since December of 1979, an amendment to the Criminal Code of Canada passed at the request of the Attorney General of Ontario has provided, upon request anywhere in Ontario, for a trial before a court which speaks both English and French, for a French-speaking accused charged with a criminal offence. During this year a steady increase in the number of such trials has been

The Ministry of the Attorney General

noted although as a proportion of cases this volume remains low except in certain areas of the province. The rule is that a trial is heard in the locality in which the matter arises with judges, Crown Attorneys and other support staff moving as required. Most of the areas where the main volume arises have such resources in place. Where a trial by jury is requested in an area which does not have a French-speaking population base large enough to permit empanelling a jury, a change of venue provision operates. This has not occurred during the year.

For matters other than under the Criminal Code, further extensions took place during the year under section 130 of the Judicature Act of Ontario (RSO 1980). On April 1, 1982 a significant milestone was reached with the designation of higher civil courts and various other courts not previously designated in twelve areas of the Province (including Metropolitan Toronto and the County of Renfrew). Although bilingual trials can be held in the High Court of Ontario in three of the counties, all other courts in the following areas provide for a French-speaking litigant to address himself to a court which understands him in his own language, while providing as before the same thing for an English speaking litigant:

Algoma, Cochrane, Essex, Niagara-South, Nipissing, Ottawa-Carleton, Prescott-Russell, Renfrew, Stormont-Dundas Glengarry, Sudbury, Timiskaming, York.

In preparation for this extension visits were made to all areas affected to meet with the judiciary and the profession and explain what was involved. These meetings were productive and resulted in a Notice to the Profession issued by the Chief Justice of Ontario representing the measures taken by the Attorney General to make these provisions work with fairness for everyone concerned.

The Ministry's French-Language Services Advisory Committee, composed of practicing lawyers, met during the year to review the delivery of services.

Bilingual court forms were extended across the province as existing stocks were exhausted.

Some of the activities pursued by the Branch during the year included the following:

- close liaison with the Association des juristes d'expression française de l'Ontario which is producing forms and materials with the help of a grant of \$100,000;

- speaking to students in French language high schools of the province;
- speaking on Quebec radio and T.V. about steps taken by the Province of Ontario in the field of justice;
- securing an agreement for funding and assistance in the field of court interpretation from the Federal government;
- monitoring French language media and acting as a Ministry spokesman;
- representing the Ministry in various Francophone associations;
- taking part in efforts to standardize French language vocabulary in the Common law;
- working on revising on section 130 of the Judicature Act;
- coordinating translation requirements for the Ministry in order to ensure that documents are not translated unnecessarily;
- preparing, publishing and distributing a Handbook of English-French Legal Terminology as a useful tool for these wishing to learn or upgrade their knowledge of French language terms in this field;
- supervising a wills translation system introduced to remove all impediments to the drafting of wills in the French language. This involves ensuring quality and speed in translations;
- liaison with the office of the Provincial Co-ordinator of French Language Services;
- producing French-language materials for Judges and Crown Attorneys;
- verifying the accuracy of bilingual versions of court forms produced by the Ministry;
- monitoring the application of the Attorney General's policy statement issued June 23, 1980;
- designating those positions within the Ministry which called for a requirement of knowledge of English and French in competitions to fill vacancies and testing candidates.

The Ministry has received considerable praise for its clear and precise approach to the introduction and delivery of French-language services, and will continue to vigorously pursue this course.

OFFICE OF THE LEGISLATIVE COUNSEL

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

The office provides a complete central legislative drafting service for the government, members of the House and petitioners for private legislation.

The Legislative Counsel is part of the Ministry of the Attorney General in respect of government matters but has an independent function as an officer of the Legislative Assembly in respect of the House procedures and work of private members. The latter function is the traditional office of the law clerk of the House.

The office consists of eight lawyers, eight secretaries and clerks, four legislative editors and a French translation staff of six translators, an administrative executive, an editor and two secretaries.

In particular, the duties and responsibilities of the office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes and office consolidations.
4. Maintaining public files of regulations and publishing the regulations.
5. Translating selected statutes into the French language and publishing the French translations for public convenience.

The statutes are maintained updated in a form capable of being printed at any time. This update is used for office consolidations and decennial revisions. The method of printing underwent a transition to the use of word processors which will eventually result in the storage and update of all the statutes in the office on diskettes capable of directly operating photocomposition for printing purposes.

The preparation and publication of the Revised Statutes, 1980, and Revised Regulations, 1980, was completed and distributed in 1981. Innovations include a comprehensive general index to the statutes, a schedule collecting all the

provisions that have been unconsolidated and unrepealed since 1867 and a table of all private Acts for the same period.

The French translation program consists of the translation and publication of selected Ontario statutes and regulations. The translations published under the imprimatur of the Attorney General have the status of official translations. Questions of interpretation are governed by the text in the form in which the Act was passed by the Legislature.

Number of Bills Drafted, Introduced and Passed

	1978	1979	1980	1981
Government Bills —				
Drafted	158	180	178	139
Introduced	125	133	101	104
Passed	106	114	84	74
Private Bills —				
Introduced	49	32	51	39
Passed	47	28	44	32
Private Members' Bills —				
Drafted	99	102	146	123
Introduced	89	79	130	104
Passed	0	1	1	0
Number of pages in statute book	1384	1056	884	814

Number of Regulations Drafted and Filed

	1978	1979	1980	1981
Drafted	1227	1122	1316	1035
Filed	1007	962	1141	884
Published pages in Gazette	1965	2568	2132	1952

Program of Operations for the fiscal year 1982-83.

Continuation of normal function.

Completion of an integrated system for printing, storing and updating of statutes and regulations by means of magnetic medium.

The Ministry of the Attorney General

POLICY DEVELOPMENT DIVISION

J. Douglas Ewart,
Director

The Division

The division, which consists of a director and seven lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 140 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the Justice Committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

Examples of Activity

Legislation

1. The Revised Statutes Confirmation Act, 1981, and Revised Statutes Amendment Act, 1981, confirm the 1980 consolidation of the Ontario Statutes and correct a number of typographical errors and omissions. In force as of August 1, 1981.
2. The Highway Traffic Amendment Act (No. 2), 1981, facilitates the operation of the driver improvement program by permitting a judge to impose the requirement of attendance at the program at the time of sentencing, rather than

postponing the sentencing pending the defendant's attendance at the program. As a result, a defendant will not have to return to court after completing the program. In force as of December 11, 1981.

3. The Surrogate Courts Amendment Act, 1982, permits judges from outside a particular county to deal with surrogate court matters. In force as of June 15, 1982.

4. The Charities Accounting Amendment Act, 1982, permits charities to hold land beyond the two-year period permitted by the old Mortmain and Charitable Uses Act. It is a companion to the repeal of the Mortmain and Charitable Uses Act. In force as of June 15, 1982.

5. The Mortmain and Charitable Uses Repeal Act, 1982, abolishes the requirement that a corporation hold a licence in mortmain in order to hold land. In force as of June 15, 1982.

6. The Unified Family Court Amendment Act, 1982, established a permanent Unified Family Court for Hamilton-Wentworth. In force as of June 25, 1982, except for Section 4 which will come into force on proclamation.

7. The Provincial Courts Amendment Act, 1982, is incidental to the Unified Family Court Amendment Act, 1982. In force as of June 25, 1982.

8. The Reciprocal Enforcement of Maintenance Orders Act, 1982, implements the Uniform Act of 1980. It received Royal Assent on June 15, 1982, and will come into force on proclamation.

9. The Children's Law Reform Amendment Act, 1982, deals with custody, access and guardianship of children. This legislation endeavours to ensure that these matters are resolved in the best interest of the child, to discourage the abduction of children and to provide for more effective enforcement of custody and access orders. The Act also implements the Hague Convention on Civil Aspects of International Child Abduction. It received Royal Assent on June 25, 1982, and will come into force on proclamation.

10. The Assessment Appeals Procedure Statute Law Amendment Act, 1982, created a new appeal process for assessment appeals, eliminating the County Court (except for references on questions of law), with a branch of the Ontario Municipal Board assuming the general appeal function previously exercised by the County Court. It received Royal Assent on July 6, 1982, and will come into force on proclamation.

Studies, Papers and Consultations

1. The division continued to devote a substantial portion of its resources to the development and drafting of a new Courts of Justice Act and a new set of Rules of Practice for the Supreme and County Courts. Lawyers from the division are assisting the subcommittee of the Rules Committee which is drafting the new Rules of Practice.
2. A lawyer from the division acted as counsel to the Task Force on Vandalism which reported to the Attorney General on November 30, 1981.
3. A lawyer from the division continues his appointment to the Board of the Residential Tenancy Commission. Since the division helped develop the residential tenancy legislation, the board can be informed of the insights gained during the process of developing the legislation.
4. Periodic reports were prepared by a lawyer of this division on regulatory reform for the Cabinet Committee on Regulations Review.
5. A lawyer from the division continued to work on the Rules Committee of the Provincial Courts (Family Division).
6. The division has participated in the Attorney General's Liaison Committee on Enforcement of Family Law Orders which is reviewing some of the practical and administrative problems that exist in enforcing family law orders, such as custody orders and non-molestation orders.
7. A lawyer from the division was chairman of the Advisory Committee on the Construction Lien Act which reported to the Attorney General in April, 1982. The Construction Lien Act will replace the Mechanics Lien Act. Its aim is to respond to the existing complexities and uncertainties in this area of the law by taking into account the problems that concerned parties have encountered under the present law.
8. A lawyer from the division co-chaired the Law Society of Upper Canada's Continuing Education Program on the Provincial Court (Civil Division) in September, 1981.
9. Lawyers in the division continued to assist with public education in the area of family law.
10. The division continued to give assistance to the interministerial Task Force which is responding to and assisting in the implementation of federal legislative proposals regarding young offenders.
11. Working with the office of the General Manager, the division began an evaluation of the effectiveness of the Provincial Court (Civil Division) project in Metropolitan Toronto.
12. The Ontario Law Reform Commission's Report on the Enforcement of Judgment Debts was reviewed.
13. A lawyer from the division is part of a working group investigating the possibility of a national registry for security interests in aircraft.
14. A lawyer from the division is a member of the Agenda Committee of Cabinet Committee on Justice.
15. The division has maintained ongoing liaison with the Ontario Legal Aid Plan through the work of a joint committee.
16. The division has participated in the Interministerial/Law Society Committee on Financial Eligibility for Legal Aid.
17. A lawyer from the division is the secretary to the Ontario Provincial Courts Committee which makes recommendations on the remuneration and other benefits available to Provincial Court Judges.
18. A lawyer for the division is a member of the Federal-Provincial Committee on Enforcement of Maintenance and Custody Orders.
19. A lawyer from the division has been working with the Ontario Association of Architects and the Association of Professional Engineers of Ontario to create new legislation to implement recommendations of the Professional Organizations Committee.
20. The division has been active in negotiations with the federal government to improve cost-sharing for criminal legal aid and to develop cost-sharing for civil legal aid.
21. The division negotiated Ontario's agreement to Canada's ratification of the International Convention on the Elimination of All Forms of Discrimination Against Women.
22. The division participated in regular meetings of the Continuing Federal-Provincial Committee of Officials Responsible for Human Rights.
23. The division assists in the provision of staff support to the Cabinet Committee on Race Relations.
24. The division participated in the Task Force on

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the Portrayal of Racial Diversity in Government Advertising and Communications.

25. The division served as a liaison between the Native Council on Justice and the Ministry.

Uniform Law Conference

The conference consists of commissioners and other participants from all provinces, the territories and the federal government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has continued to contribute to the work of this conference. In 1981, the conference adopted the Uniform Custody Jurisdiction and Enforcement Act which is based on the Children's Law Reform Amendment Act, 1982, developed by the division.

CRIMINAL LAW DIVISION

R.M. McLeod, Q.C.,
Assistant Deputy Attorney General
and Director of Criminal Law

The Division comprises two branches, the Crown Attorneys' System and the Crown Law Office — Criminal, and is responsible for all criminal prosecutions and the provision of legal advice to the Attorney General and Deputy Attorney General in all Criminal Law matters.

Crown Attorneys System

J.D. Takach, Q.C.,
Deputy Director of Criminal Law
and Director of Crown Attorneys
W.H. Langdon, Q.C.,
Deputy Director of Crown Attorneys

History

Prosecution authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded it became increasingly difficult to carry out this function from one central office. In 1857, authority was granted for the establishment in each county of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of

the county and, as such, was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys' Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Crown Attorneys' System is composed of 236 lawyers who specialize in criminal law. In Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and three Crown Counsel, who are assigned to local offices that require temporary assistance, and who also perform various special assignments as delegated by the Director and Deputy Director. There are 49 full-time Crown Attorneys, four Deputy Crown Attorneys in York County and 178 Assistant Crown Attorneys, 24 of whom are female.

The largest local office is the Judicial District of York, where the Crown Attorney is assisted by four Deputies and 66 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to thirteen lawyers. Finally, the Crown Attorneys supervise the 538 part-time Assistant Crown Attorneys throughout the province who are engaged on a daily basis from time to time.

Responsibilities

The Crown Attorneys' System is responsible for the conduct of prosecutions under the Criminal Code and other federal statutes such as The Juvenile Delinquents Act. Crown Attorneys also

conduct prosecutions under such provincial statutes as The Highway Traffic Act and The Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They make recommendations to the police and private citizens, who may wish to lay charges, as to the appropriate charge, and appear as counsel for the Crown at bail hearings and at trial at all levels of court. Crown Attorneys also watch over private summary conviction prosecutions and intervene if the interests of the community require it.

The following are some of the more significant areas of concern and achievement in the Crown Attorneys' System during the year:

1. Charter of Rights

The passage by the federal Parliament of the Constitution bill in November, 1981, and its subsequent passage through the British Parliament, undoubtedly will have a considerable effect on the practice of criminal law insofar as it relates to the new Charter of Rights. In order to prepare members of the Criminal Law Division for the implementation of the Charter a great deal of research and material preparation was carried out. This culminated in training seminars in February/March, 1982, attended by all members of the Criminal Law Division. It may be safely said that our members were as well prepared as any lawyer in Canada to deal with questions raised by the Charter of Rights in the practice of criminal law. It is still too early to assess the ramifications of the Charter.

2. Inquests

By statute, the Crown Attorney is appointed as Counsel to the Coroner during the inquests and, in effect, has a considerable role to play. He examines the witnesses and makes summations to the jury. There are approximately 300 inquests a year which the Crown Attorney or his Assistants must attend. Many of these inquests are relatively straightforward, but others are becoming controversial and complex. Several of these occurred in 1981-82: the Ellerton inquest in Toronto, dealing with the availability of illicit drugs at the Queen Street Mental Health Centre; the Parma inquest in Brampton, dealing with the death of five members of one family in a traffic

accident; and the fire deaths at the Inn on the Park, which was a carry-over from 1980-81.

3. Provincial Offences Act

Several Crown Attorneys and Assistant Crown Attorneys were heavily involved with assisting our Policy Branch in the planning and implementation of the Act. They also assisted in instructing personnel from this Ministry and other ministries, members of the legal profession and Law Enforcement Officers concerning the new Act. All Crown Attorneys have been involved as resource persons during the introductory period of the Act, advising police and other agencies where problems have occurred. In addition, the Crown Attorney conducts all appeals to the Provincial Court taken under The Provincial Offences Act. The office of the Director of Crown Attorneys continues to monitor the progress and problems in connection with the implementation of the Act.

4. Workload and Case Backlog

Each year the Crown Attorneys' System prosecutes many complex cases involving conspiracy, fraud and white collar crime. Each year there is an increasing number of these cases. They are taking longer to process through the courts and more are going to trial than in the past. There are varied reasons for this, but society in general seems to be more litigious. The cases themselves may involve many hours of studying wiretap transcripts and evidence, and may involve conspiracy, loan sharking, extortion or fraud. One of the main contributory factors to the backlog is the need for additional Crown Attorneys and judges to process these cases. Perhaps the most serious reason for the delay between the laying of a charge and the final disposition of a case is the fact that only a small percentage of the defence bar appears for the various accused in Criminal cases. As a result, due to the other commitments of defence counsel, preliminary hearings, particularly, have to be heard piecemeal, a day at a time, with the result that in some cases the preliminary hearing can stretch over a year or more. Greater judicial control over adjournments could assist with the problem. A detailed presentation was made to Management Board for extra staff to help overcome this backlog. As a result, the Crown Attorneys' System has been allotted 18 extra full-time lawyers. It is hoped that this addition to the staff, which has been placed in the busier offices, will lessen the

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case backlog considerably. In addition, in the Fall of 1982, there is to be a "blitz" on the County Court backlog in Toronto. This will involve bringing in out-of-town Crown Attorneys to assist so that there is no disruption of the schedule of the regular staff.

5. Training and Development

Each year, the Ontario Crown Attorneys' Association conducts two meetings for Crown Attorneys and their assistants. These take place in the Spring and in the Fall. The Fall meeting is held in Toronto and the Spring conference moves from place to place throughout the province. Professional staff of the Crown Law Office also attend these conferences. The meetings themselves are educational in nature, with seminars, panel discussions and lectures on legal subjects of current interest. There is an average attendance of between 120 to 150 members of the association at each conference.

The Ontario Crown Attorneys' Association also conducts a summer school. Until this year it has been held at Massey College in the University of Toronto. In 1982, it will be held at the University of Western Ontario for the first time. There are three courses, one for first-year Assistant Crown Attorneys, one for second-year personnel and one for more senior and experienced personnel. The courses are available to all members of the Crown Attorneys' Association, members of the Crown Law Office, lawyers in other ministries and Crown Counsel from other provinces, all by invitation. The course for second-year personnel is devoted entirely to advocacy, with practical demonstrations, and much student participation. This year about 80 lawyers from the Association, several lawyers from other ministries and Crown Counsel from other provinces attended.

Representatives of the Crown Attorneys' System attended conventions held for Crown Counsel in British Columbia and New Brunswick.

Six members of the support staff attended management training courses run by our own Human Resources Branch and eight attended support staff seminars run by the Ministry or the Civil Service Commission.

6. Law Reform

In the past four or five years, there have been a considerable number of working papers and proposals dealing with reform of criminal law in

Canada. These proposals require a response from our Ministry, both in writing and by attendance at various workshops. This response, shared by the Crown Law Office and the Crown Attorneys' System, requires that considerable time be spent in studying the proposals, preparing position papers and recommending changes to the Criminal Code. Representatives of the Crown Attorneys' System also attended the Uniform Law Conference in Whitehorse, Yukon Territory.

7. Criminal Code Review

Senior officials of the Crown Attorneys' System are members of the Government Consultation Group concerned with reviewing the Criminal Code. They meet regularly with the members of the Canadian Law Reform Commission. The group consists of members from each province, together with personnel from the federal government. This group was set up about one year ago to enable the provincial governments to have input as to the direction criminal law is taking. The group meets regularly for three-day sessions, wherein various parts of the Criminal Code receive in-depth study and analysis. Members of this Ministry will continue to form part of this group in future years.

8. Uniform Evidence Act.

In August, 1977, the Uniform Law Conference created a Federal-Provincial Task Force on the law of evidence for the purpose of creating a Uniform Evidence Act (civil and criminal) for Canada. Ontario was represented, as were a number of other provinces and the federal Justice Department, by legal officers from the civil and criminal sectors of the Attorney Generals' departments on a part-time basis. In August, 1979, at Saskatoon, the conference agreed to create a special research group on a full-time basis to assist the part-time representatives in expediting completion of the Act and the final report. Ontario, Quebec, Alberta and Canada contributed a full-time member for this group. Ontario's representative was a senior Crown Attorney who served full-time for 14 months. During this period the Task Force made recommendations on 27 identified areas of the law of evidence. Approximately 38 areas were dealt with in the final report which produced a Uniform Evidence Act. The Act has been examined by representative groups from all provinces and the federal government. It is before Parliament, but it is not known when it might become law.

9. Regional Crown Attorneys

In 1976, a regionalization program was instituted in which nine existing Crown Attorneys were designated as Regional Crown Attorneys. The Regional Crown Attorneys meet regularly in Toronto with the Director, the Deputy Director and, upon occasion, the Attorney General. The regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their region and the other Regional Crown Attorneys. Regionalization also has regularized the relief system which is necessary to deal with shortages of manpower, and has strengthened the principle of a uniform administration of justice without undermining the contribution local Crown Attorneys have made and will continue to make.

Regional Crown Attorneys also serve on sub-committees of the Regional Crown Attorneys' Council, formed to deal with urgent topics.

10. Provincial Prosecutors

There are 38 provincial prosecutors employed throughout the province, one of whom is a woman. They are assigned to larger Crown Attorney's offices, particularly those with heavy traffic caseloads. Provincial prosecutors are considered para-professionals; they are lay persons, usually with a background in law enforcement. They represent the Crown in Provincial Offences Court, regularly appearing opposite lawyers. They perform a vital and useful function in the Crown Attorneys' System. In several jurisdictions they represent the Crown on Provincial Offences Act appeals taken in the Provincial Court (Criminal Division).

11. French Language Services

French Language Services are being rapidly expanded by the Ministry to cover all areas of the Province with a significant French-speaking population. The Crown Attorneys' System has 39 bilingual lawyers able to conduct trials in French. These lawyers, spread throughout the Crown Attorneys' System, are assigned to attend in other jurisdictions to conduct trials in French, at the direction of the Director or Deputy Director. The Crown Attorneys' System has more bilingual professional staff than any other branch of the Ministry.

12. Affirmative Action

The Crown Attorneys' System is fully committed to the principles of Affirmative Action. At present there are 24 female Assistant Crown Attorneys. This is an increase of 700 per cent in the last six years. Female lawyers in the system have access to all training and development programs and are encouraged to compete for more senior positions. Insofar as the support staff goes, an attempt is being made to upgrade female employees by on-the-job training. There were two such programs during the year, one in which a secretary received three months provincial prosecutor training and one in which a secretary was trained as an office manager. In addition, the job specifications of the senior secretaries in several of our larger offices were reviewed and job classifications upgraded.

13. Highway Safety

The Crown Attorneys' System has a firm commitment to the promotion of highway safety. There is a strict policy concerning the prosecution of drinking drivers, with particular reference to second and subsequent offenders. During the fall conference one day was devoted to highway safety. In addition, the Deputy Director is a member of the Ontario Traffic Safety Council, which meets monthly to discuss traffic safety matters of mutual interest to the police, the Ministry of Transportation and Communications, the Ministry of the Solicitor General, the Ontario Police Commission and the Ministry.

14. METFORS

In the summer of 1977, the Metropolitan Toronto Forensic Service (METFORS) began its operations in two floors of the Queen Street Mental Health Centre at 999 Queen Street West, Toronto. METFORS is governed by a board consisting of the chairman, who is the Crown Attorney for York, a representative from each of the Ministries of Health and Corrections and the Clark Institute and the director. They meet once a month to review the METFORS' operation.

Prior to the implementation of METFORS, notwithstanding the efforts of all concerned, substantial delays were experienced in obtaining court-ordered mental assessments of accused persons. The courts are interested in the mental stability of a newly arrested accused (if he appears to be suffering from some mental disorder), which might affect his attendance for trial if released on

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bail, or result in danger either to the public or himself if he were released from custody. The court also is interested in his fitness to stand his eventual trial.

METFORS is able to provide the courts within two or three days of the date of arrest with a thoroughly researched assessment which may guide the courts in determining the often delicate question of bail and the other issues referred to earlier.

Crown Law Office — Criminal

Howard F. Morton, Q.C.,
Director

Harry G. Black,
Deputy Director

Composition

The office is composed of 25 lawyers, all of whom specialize in criminal law. This reflects a net loss of two lawyers in the past year, one to the Provincial Court Bench and one to private practice. There has been a sharp rise in the number of criminal appeals argued in recent months due to the increased sittings of the Court of Appeal in criminal cases. Previously that Court usually sat four panels per month (one per week). Now as many as seven panels per month is not unusual and in any event at least five or six panels per month has become the norm.

In addition, the Charter of Rights has already made its presence felt in the area of section 24 applications at all stages of the criminal process, from judicial interim release hearings to the Appellate Courts. Corresponding demands on this office are a direct result of the Charter's inception. The heavy caseload that the office has experienced in recent years has continued, particularly in the areas of criminal appeals and special prosecutions.

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Office's major responsibility and encompass a large portion of our workload due to their increased complexity and the frequency of court sittings.

2. Special Prosecutions

In the past year, the Office has continued to

prosecute an increasing number of offences which have been referred to as organized crime prosecutions. As a result of a Tri-Force approach to police investigation in this area, charges have been laid against about 472 persons involved in organized criminal activities in the past five years. Among the charges are several involving complex conspiracies. Of particular significance was the success the unit has had within the past year in penetrating the innermost workings of an organized crime family in the Toronto area. As a result of the unit's success in "turning" an enforcer for organized crime toward co-operation with law enforcement authorities, several key members of organized crime have been convicted within the past year of serious offences, including conspiracy to commit murder, and sentenced to lengthy penitentiary terms.

In addition, the unit has worked closely with the Office in other major cases such as the prosecution of prominent Toronto attorney Joseph Pomerant on charges of forgery and obstructing justice. He was recently sentenced to a lengthy penitentiary term. Others involve breach of trust, bribery, extortion, kidnapping and counterfeiting, attempts to obstruct justice, theft, forgery, fraud and other criminal rackets. These prosecutions are as a result of intensive investigation into patterns of criminal activity that are planned and organized by persons acting in concert. Counsel in the Crown Law Office are consulted by and advise members of the Task Force at regular intervals in the course of every major investigation. Counsel in the Crown Law Office have participated in intensive courses dealing with the prosecution of organized crime at Cornell University.

In addition, the Office has continued to prosecute an increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and take a large amount of preparation and trial time. Liaison with the fraud squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. is an important feature of the Office's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases. The Ontario Securities Commission has continued to refer an increasing number of complex investigations involving allegations of fraud in the trading of securities and other unlawful conduct. Consumers' protection

legislation has also added to the burden of this Branch with special prosecutions under these statutes.

During the past year, counsel from this office have been involved in several additional and very complex investigations, such as those arising from the Re-Mor/Astra Trust collapse and the contempt of Court prosecutions against the hospital workers strike throughout Ontario.

3. Other Court Appearances

Court appearances by lawyers in the Office also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, contested motions and summary convictions appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. In this area as well, the inception of the Charter of Rights has already been felt. Counsel appear on applications for leave to appeal and appeals in the Supreme Court of Canada which are heard every two weeks. When such applications are granted, there are more lengthy and subsequent appearances required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, despite procedural adjustments to standardize court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Office is to create, within its personnel, a level of expertise in selected specialized areas of criminal law and procedure so as to be able to provide advice to others involved in the administration of justice in the province, who require legal opinions, often on an emergency, or, at least, short notice basis. To this end, the lawyers in the Office are constantly encouraged to involve themselves in private research and a variety of academic pursuits including the writing of text books and articles for publication and participating

in continuing legal education programmes and seminars. Several lawyers in the office participate as instructors in The Law Society Continuing Education Programmes, in the Bar Admission Course, Criminal Law Section and the Canadian Bar Association Continuing Legal Education Programmes.

This advisory function also extends to the delivering of lectures and conducting of seminars at many Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

5. Committee Work

The participation of members of the Crown Law Office — Criminal on various interministerial committees has increased during the past year. Members of our office have participated on Committees dealing with, *inter alia*, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy, psychiatry, remands in custody, victim justice and the special Rules Committee for Provincial Offences. Counsel in the Crown Law Office also staffs the Criminal Justice Advice Service for the victims of Racially Motivated Criminal Offences.

6. Justice Policy

In the past year, the Crown Law Office expanded its involvement in the formulation of justice policy matters in the area of criminal law. The most prominent areas of our involvement are as follows:

(i) Drinking-Driving:

A mandate to design, legislate and implement a 24-hour licence suspension system in conjunction with a check stop operation which will be based upon the use of roadside screening device.

This endeavour is the most recent undertaking by the Crown Law Office in its continuing attempt to reduce the magnitude of the problem of drinking-driving in the province.

(ii) Outstanding Fines:

This undertaking included the preparation of a policy submission on control and collection of outstanding fines, together with work on the Interministerial Committee on the Vehicle Registration System.

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(iii) Diversion:

In the past year, counsel continued to spend considerable time in examining this concept in preparation of a ministerial policy.

(iv) Human Rights and Race Relations:

Counsel in the Crown Law Office are engaged in work in this field on an ongoing basis. This involves:

- attendance at all meetings of the Ontario Human Rights Commission (two days per month);
- liaison with the Ontario Human Rights Commission on all matters of mutual concern;
- handling hate literature complaints;
- attending meetings of the Urban Alliance on Race Relations, which operates three pilot projects on which police officers and community members work together on a committee which deals with race relations matters;
- work on a sub committee of the U.A.R.R. which is preparing a booklet explaining police powers and duties in racial confrontation;
- design of a racial attack response system, which will be operated out of this Ministry to assist complainants in laying and prosecuting charges;
- co-ordination and preparation of the government's response to the Uballi Report on race discrimination against South Asians.

(v) Traffic Tribunals:

The Crown Law Office was responsible for the introduction of the traffic tribunal concept to the Borough of North York in 1974 and has maintained its supervisory role on a continuing basis, including the expansion of the concept to three other Metro Toronto Boroughs in 1977. In light of the success of the tribunal concept, and the recommendation of the Select Committee on Highway Safety that the concept be further expanded, counsel in the Crown Law Office will continue to supervise its operation.

(vi) Response to Royal Commissions, etc.:

The Crown Law Office continues to draft Ministry policy, in response to various Royal Commissions. In past years, we have reviewed and responded to both the Shapiro Report of the Royal Commission on the Toronto Jail and Custodial Services and the Ombudsman's Report on Audit Correctional Institutes. Currently we are working on issues

raised by the Krever Royal Commission and the McDonald Inquiry concerning Certain Activities of the Royal Canadian Mounted Police and also on issues raised with respect to the "freedom-of-information" proposals.

7. Law Reform

In the past four or five years, the Federal Law Reform Commission has spawned a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry, both in writing and by attending several workshops throughout the year. This response which has been shared by the Crown Law Office — Criminal and the Crown Attorneys' system, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending several changes to the Criminal Code which have been acted on by the federal government. In addition, over the past year, a considerable amount of time and study has been directed toward the "victim-witnesses", to services through the criminal justice system, the needs of both victims of crime and corresponding needs of witnesses. As well, counsel in the Crown Law Office — Criminal continue to be engaged in criminal litigation arising out of the Provincial Offences Act legislation and have developed a high degree of competence in dealing with the many issues arising out of this unique legislation.

8. Extradition and Commission Evidence

With the advent of white-collar crime, international criminals, swift means of travel and the nearness of international borders, we are now finding that this office is called upon to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute this type of crime, it is now becoming necessary both to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries, and to effect extradition in other cases. In co-operation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence. We also provide direct assistance to the Crown Attorneys in the province in both these areas. These areas of responsibility have dramatically increased within the past year.

9. Other Responsibilities

This office also handles various administrative

matters in the criminal justice field, including transfer of charges under the Criminal Code, transfer of probation orders, reciprocal enforcement of maintenance orders, the Criminal Records Act, the Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving the preparation of formal opinions, service on interdepartmental committees or the provisions of informal expert opinion, to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an "on-call" basis constitutes an important part of the Office's workload.

CIVIL LITIGATION AND LEGAL ADVISORY SERVICES

Blenus Wright, Q.C.,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law, which is divided into the Constitutional Law and Civil Law Divisions, and the Common Legal Services which provides legal advice and legal services to all ministries of government. He deals with conflict-of-interest matters and is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, the Law Foundation of Ontario.

Constitutional Law

John Cavarzan, Q.C.,
Director

The Division consists of five lawyers, including the Director.

The regular functions of the Division include advising all ministries on constitutional questions, reviewing litigation in Ontario Courts, the Federal Court of Canada, and the Supreme Court of Canada in which constitutional questions are raised, and engaging in such litigation where advisable.

Since the last annual report the following significant developments have occurred on the "constitutional front". The Supreme Court of Canada published its decision in the consolidated appeals from the Courts in Manitoba, Newfoundland and Quebec (the Patriation Reference) on September 28, 1981.

Its ruling that the federal proposals were at once legal but unconstitutional led to further federal/provincial discussions. The agreement of November 5, 1981, endorsed by all governments save that of Quebec was the result.

The Canada Act was finally passed by the U.K. Parliament in March, 1982. The Constitution Act, 1982, was proclaimed in effect in Canada by the Queen on April 17, 1982.

Already, many laws have been challenged as contrary to the Canadian Charter of Rights and Freedoms, a major component of the Constitution Act, 1982. Charter issues and research for the next round of constitutional discussions among First Ministers will add to the Division's usual workload in fiscal 1982-83.

The Division has continued to maintain close liaison with the Ministry of Intergovernmental Affairs and with other interested ministries. Members of the Division attended the following federal/provincial conferences during the year:

Premiers' Conference on the Constitution
Montreal

October 18-19, 1981

Federal-Provincial Conference of First Ministers
on the Constitution
Ottawa

November 2-5, 1981

Each of the above conferences required extensive preparation of materials and follow-up work to implement decisions taken and generally to advance the goals of the conferences.

In addition, members of the Division participated in the proceedings of five interministerial committees primarily to provide advice on constitutional issues.

With respect to the normal operations of the Division, the Attorney General received 40 notices of constitutional questions being raised in the Ontario courts and 15 notices of constitutional issues in cases before the Supreme Court of Canada. These notices require analysis of the questions involved and assessment as to the advisability of the Attorney General of Ontario being represented. In the result the Division represented the Attorney General of Ontario in 17 cases. In addition, members of the Division co-operated with members of the Civil Law Division and the Crown Law Office (Criminal) in questions arising in matters dealt with by them.

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Finally, as was noted in last year's report, we are now receiving notice of constitutional issues arising in matters before the Federal Court of Canada. This year's statistics reveal that we have received such notices in four cases referred by other provincial administrations to their respective Courts of Appeal.

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Litigation	81/82	(80/81)
Notices of constitutional issues given under section 35, Judicature Act	40	(39)
Notices of constitutional issues from Federal Court of Canada	4	(6)
Notices of constitutional issues from Supreme Court of Canada	15	(16)
Notices of constitutional issues from other Provinces	2	(6)
Constitutional Cases undertaken (argued or assistance provided)	25	(37)
Written Opinions and Advice (includes opinions requested on proposed federal and provincial legislation)	37	(27)
Many Informal Opinions given in meetings and consultations with other Ministries		
Premiers' Conferences on the Constitution	2	(8)*
Participation in Interministerial Committees	5	(3)

*(8) Represents the total number of federal/provincial conferences of first ministers, ministers and officials.

The Division does not initiate legislative or administrative programs; its principal functions are to provide legal advice to the government on constitutional questions and to represent the Attorney General in litigation involving constitutional issues. The Division is now in its sixth year of operations.

In the past year, there has been an increase in the number of requests for opinions. The figures do not reflect the fact, however, that the questions investigated for such opinions are becoming increasingly complex; nor do they reflect the fact that a large number of opinions have been requested and given on the implications of the federal constitutional proposals referred to at the outset of this report. Each such opinion requires a substantial time commitment on the part of Division counsel and support staff.

Crown Law Office – Civil Law

Julian Polika, Q.C.,
Director

The Branch consisted of 24 lawyers by the end of March, 1982, including the director who provide an independent legal service for all ministries of the government, especially in the area of civil litigation.

Workload

Although there has been a leveling out in the number of incoming files, the workload has not decreased because of the ongoing caseload. The total number of cases assigned was 2,178. As of March 31, 1982, there were 3,320 on hand as opposed to 2,883 cases the previous year. The bulk of the cases handled and on hand were in the area of serious litigation, that is applications for judicial review, Supreme Court of Ontario actions or actions in other courts such as the Federal Court of Canada.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of civil litigation and opinions, the work has increased and become more varied. In particular, there has been continued increase in litigious and advisory matters involving sheriffs and the court system. The Branch has also been involved in a great number of interpleader applications.

Serving other Ministries

The Branch continues to serve other ministries and involves appearances on behalf of the government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in

appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various boards and tribunals and conducted provincial prosecutions on behalf of a number of ministries. For those ministries and other governmental bodies not served by the Common Legal Services program the Branch provided a complete legal service.

The Branch has also been involved in labour/management matters. Counsel are appearing on grievances on a regular basis and in the consequential court proceedings.

Law Reform

Over the past few years, there have been a considerable volume of reports, working papers and proposals dealing with the reform of provincial and federal law. These proposals have required response from the Ministry. The Branch has shared in the response by writing and participating in programs and seminars throughout the year.

The Branch had a permanent delegate on the federal-provincial task force developing uniform Rules of Evidence which wound up this year and carried its share in the preparation of background papers for discussion by the task force. The Branch also is participating in the review of the Williston Report on the Rules of Practice.

The enactment of The Provincial Offences Act, 1979, has required the provision of educational programs by the Ministry for those individuals involved in that aspect of the justice system. Counsel from the Branch has assisted in the conduct of such programs.

Affirmative Action

The Branch has been and is fully committed to the principles of Affirmative Action not only as to sex but also in respect of individuals with physical impairments. Presently there are five female Crown Law Officers. It is anticipated this will increase to eight.

Particular Services Rendered

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and,

by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1981/82 227 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 92 of these applications.

2. Claims For and Against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents and trademarks.

In the fiscal year 1981/82 the Branch received 195 Notices of Claim.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the government in respect of motor vehicle accident claims where the government or an employee of the government has a claim against an individual. Claims against the government where the government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims Director; if settlement is not possible an action is brought in the appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1981/82 825 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the exception that a lien could not be attached to property of the Crown. In the fiscal year 1981/82 63 such actions were handled by the Branch.

5. Expropriations

Over the last number of years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportation and Communications and the Ministry of Government

The Ministry of the Attorney General

Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the courts. In the fiscal year 1981/82 22 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various boards and tribunals, for example, the Game and Fish Hearing Board, the Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the courts in divorce actions and other related matrimonial causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present, the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year 1981/82 86 Queen's Proctor matters were reviewed and counsel within the office actively dealt with 22 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or when the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of the Ministry of Natural Resources under The Game and Fish Act and related statutes. In the fiscal year 1981/82 18 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions

The Branch, in response to specific inquiries from the ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a ministry in anticipation of litigation, or as a result of litigation. In the fiscal year 1981/82 178 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Council's office to see that those changes are carried out.

On a day-to-day basis, legal officers answer public inquiries pertaining to statutes, administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the ministries and, in particular, to the Ministry of Tourism and Recreation, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

12. Petitions to Cabinet

Counsel in the Branch are responsible for preparing petitions to Cabinet originating primarily because of statutory provisions in The Ontario Municipal Board Act and The Ontario Highway Transport Board Act. In the fiscal year 1981/82 126 such matters were received.

Forecast of Operational Activities

The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1982/83 the Branch will handle some 2,500 new cases in addition to the ongoing 3,320 cases. It is not possible to determine with any accuracy the actual increase as Branch work is determined by unpredictable factors.

The Branch is in the process of taking on the additional responsibility for the Reciprocity Office presently responsible for the enforcement of foreign maintenance orders, the service of foreign court documents and related matters. The activity in this area is expected to increase dramatically with the implementation of the

Hague Convention pertaining to child custody matters.

French Language Instruction

In the fiscal year 1981/82 lawyers on staff were on French-language courses. This program will continue through 1982/83. The program is in keeping with the introduction of the French language into the court process in Ontario.

Common Legal Services

J. B. Gleason, Q.C.,
Director

Legal Services to Ministries

The Common Legal Services program involves the provision of legal services to all Ontario Government ministries. The Director is responsible for the development of a unified approach to legal opinions, evaluation of legal services provided and career development.

There are 134 lawyers in the 21 legal branches located in the various ministries, varying in size up to 17 lawyers, all of whom are employed by Common Legal Services on behalf of the Attorney General. In total the Common Legal Services has 238 professional, secretarial, clerical and para-legal persons in its employ.

Common Legal Services is also responsible for retaining private sector counsel where such services are required by the Government.

Professional Development

Professional development of lawyers is a continuing objective of Common Legal Services.

Attendance at educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society, provides opportunities for lawyers to keep up with the changes in the law. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are on the increase, creating more career opportunities for government lawyers.

Liaison with Boards, Official Guardian, Public Trustee

The Director has a liaison responsibility between the Ministry and the Assessment Review Court, the

Land Compensation Board, the Ontario Municipal Board, the Board of Negotiation and the Criminal Injuries Compensation Board, the Official Guardian and the Public Trustee.

Office of The Official Guardian

L. W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of The Judicature Act and Section 20 of The Child Welfare Act.

General

The Office has a regular staff of 67 and seven law students. It also uses the services of lawyers who act as agents throughout the Province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian provides independent representation for children in matters arising out of the Unified Family Court Project in Hamilton as well as representation for unrepresented mentally incompetent persons who refuse medical treatment under the Mental Health Act.

Under Section 20 of The Child Welfare Act, which was implemented on February 1, 1980, the Official Guardian provides independent legal representation for children in protection cases in the Family Court. This program includes the utilization of 550 members of the private Bar under the supervision of this office in addition to service provided by members of the Branch legal staff.

The Official Guardian is also required by The Child Welfare Act to determine what action should be taken against child abusers.

Increasing Demand

The Official Guardian contributes to developments in family and child law and attempts to meet new, related responsibilities and challenges.

Judges are appointing the Official Guardian to represent children in custody and access proceedings. This is a growing and onerous responsibility.

The Ministry of the Attorney General

A major concern is the adoption of children of unwed mothers whose consent to adoption is required. The Official Guardian provides legal advice to these mothers before they consent to adoption. This important and far-reaching service

tends to curb improper placements of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants.

Report of Operations

The statistical data for the fiscal year 1981-82 and for the calender years 1978 through 1981 is as follows:

Surrogate Court Audits	1978	605	(Increase in 1978)	11
	1979	571	(Decrease in 1979)	34
	1980	510	(Decrease in 1980)	61
	1981	538	(Increase in 1981)	28
Fiscal Year 1981-82 — 539				
Matrimonial Causes New Matters	1978	13,733	(Increase in 1978)	310
	1979	14,333	(Increase in 1979)	600
	1980	13,348	(Decrease in 1980)	985
	1981	13,781	(Increase in 1981)	433
Fiscal Year 1981-82 — 13,983				
Number of Payments into Court	1978	274	(Decrease in 1978)	11
	1979	287	(Increase in 1979)	13
	1980	254	(Decrease in 1980)	33
	1981	187	(Decrease in 1981)	67
Fiscal Year 1981-82 — 200				
New Fiats authorizing payments out of Court for maintenance and other purposes	1978	464	(Increase in 1978)	6
	1979	475	(Increase in 1979)	11
	1980	607	(Increase in 1980)	132
	1981	696	(Increase in 1981)	89
Fiscal Year 1981-82 — 747				
Number of Payments out of Court pursuant to existing Fiats	1978	1,864	(Decrease in 1978)	19
	1979	1,856	(Decrease in 1979)	8
	1980	1,944	(Increase in 1980)	88
	1981	2,002	(Increase in 1981)	58
Fiscal Year 1981-82 — 2,062				
General Counsel Work in Matters arising out of: Variety of Statutes effecting the legal civil rights of children in estate and other matters	1978	1,330	(Decrease in 1978)	680
	1979	1,299	(Decrease in 1979)	31
	1980	1,445	(Increase in 1980)	146
	1981	1,500	(Increase in 1981)	55
Fiscal Year 1981-82 — 1,455				

Child Representation in Custody
and Access Matters

1978	172	(Increase in 1978)	45
1979	200	(Increase in 1979)	28
1980	300	(Increase in 1980)	100
1981	310	(Increase in 1981)	10

Fiscal Year 1981-82 — 319

Child Representation in Child
Welfare Matters

1979	556		
1980	2,260	(Increase in 1980)	1,704
1981	3,081	(Increase in 1981)	821

Fiscal Year 1981-82 — 3,166

New Miscellaneous Matters:

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the Years

1978	19,642
1979	19,577
1980	20,668
1981	22,095

Fiscal Year 1981-82 — 22,471

	1984-85	600
	1985-86	600
Matrimonial Causes New Matters	1982-83	14,500
	1983-84	15,000
	1984-85	15,500
	1985-86	16,000
Payments into Court	1982-83	300
	1983-84	300
	1984-85	300
	1985-86	300

Forecast of Operational Activities

The Office of the Official Guardian will continue to render legal services on behalf of persons under a legal disability consisting mainly of minors and mental incompetents. It will also keep abreast of and contribute to developments in family and child law and exercise its specific responsibility to provide independent representation in relation to the Unified Family Court Project in Hamilton. A branch activity will continue to be the implementation of Child Representation in Part II applications under The Child Welfare Act. This program will involve not only an accelerated delivery of legal services in these matters by staff counsel but also the development, administering, and monitoring panels composed of some 550 solicitors from the private bar who provide this service throughout the Province.

Representation of children in custody issues will substantially increase.

Forecast of the Program and Activities for the
Fiscal Year 1982-83 and the Three
Succeeding Years:

Surrogate Court	1982-83	600
	1983-84	600

New Fiats Authorizing Payments
out of Court for Maintenance
and Other Purposes

1982-83	750
1983-84	800
1984-85	850
1985-86	900

General Counsel Work

1982-83	1,400
1983-84	1,500
1984-85	1,600
1985-86	1,700

Child Representation in Custody
and Access Matters

1982-83	350
1983-84	450
1984-85	550
1985-86	650

Child Welfare Counsel Work

1982-83	4,000
1983-84	4,500
1984-85	5,000
1985-86	5,500

Payments out of Court Pursuant
to Existing Fiats

1982-83	2,100
1983-84	2,200
1984-85	2,300
1985-86	2,400

The Ministry of the Attorney General

Public Trustee

A. J. McComiskey,
Public Trustee

The Public Trustee performs duties under some 28 Statutes. The main responsibilities lie in:

- (a) the administration of estates of persons who die in Ontario intestate and without next of kin in the province;
- (b) gathering in assets on behalf of the Crown pursuant to the Escheats Act where there is no known owner;
- (c) maintaining a general supervisory role over Ontario charitable organizations, by reviewing the accounts and financial statements of charitable organizations, attending on court motions for interpretation of wills where charities may have an interest, and by performance of duties under the Mortmain and Charitable Uses Act, the Charities Accounting Act and the Charitable Gifts Act;
- (d) administering the estates of individuals pursuant to a Power of Attorney where the individual is mentally competent but by reason of age, infirmity or geographical location is unable to look after his or her own business affairs; by voluntary appointment by a patient upon admission to a psychiatric facility, as statutory committee pursuant to the Mental Health Act where a patient is certified as incompetent under that Act upon admission to a psychiatric facility or as the court appointed committee under the Mental Incompetency Act.

Unlike most government agencies, the Public Trustee does pay all of its operating expenses out of income received from legal fees, compensation as executor, administrator or committee and from interest received from investments.

As at March 31, 1982 the Public Trustee had total assets under administration of \$272,102,282 made up as follows:

Estates and Trusts

Cash in bank	\$ 58,750
Funds invested (schedule A)	87,945,770
Bonds	85,752,666
Stocks	5,956,273
Mortgages receivable	4,108,571
Real estate	28,611,940
Pensions and life insurance	37,612,713
Miscellaneous	3,015,163

	253,061,846
Deduct mortgages payable	893,329
	252,168,517

Administration Fund Account (note 2)

Cash in bank	68,765
Funds invested (schedule A)	19,865,000
	19,933,765
	\$272,102,282

Those assets are administered on behalf of estates and trusts as follows:

Estates and Trusts

Patients' estates	\$194,702,482
Crown estates	16,918,983
Deceased persons' estates	5,065,809
Probable escheats	7,743,761
Special trusts and charities	16,280,772
Corporate estates	5,192,858
Crown companies	583,527
Indian trusts	185,589
Unclaimed balances	391,042
Cemetery trusts	5,038,843
Child welfare trusts	64,851
	252,168,517

Administration Fund Account

Current liabilities	505,698
Assurance fund (note 3)	200,000
Surplus	19,228,067
	19,933,765
	\$272,102,282

The operation of the office of the Public Trustee again earned a substantial profit for the fiscal year ended March 31, 1982, as shown by the Statement of Revenue and Expenditure set out below:

Revenue

Fees collected	
Patients' estates	\$3,251,958
Crown estates	492,021
Deceased persons' estates	112,592
Probable escheats	97,646
Crown companies	19,368
Special trusts	162,571
Corporate estates	14,304
Cemetery trusts	22,200
Charities	50,776
	4,223,436

Bank interest	6,627
Income from funds invested, net (schedule B)	<u>4,926,690</u>
	<u>9,156,753</u>
Expenditures	
Salaries	3,181,875
Employee benefits	496,177
Transportation and communication	104,333
Services	629,395
Supplies and equipment	<u>111,090</u>
	<u>4,522,870</u>
Excess of Revenue over Expenditures	<u><u>\$4,633,883</u></u>

Generally, the work of managing estates is labour oriented. Thanks to a knowledgeable, experienced and conscientious staff, the task was well performed in this fiscal year.

There are some areas, however, where the Public Trustee might well give better or additional service to the public but with respect to which no statutory authority presently exists, including the following:

(1) Complaints are received particularly from Alzheimer patients or their families that under the Powers of Attorney Act authority of the attorney is terminated upon the patient being certified under the Mental Health Act. This frequently results in an application having to be made for appointment of a committee under the Mental

Incompetency Act at some considerable expense to the patient's estate;

(2) It appears that there are a substantial number of elderly persons in nursing homes, chronic-care hospitals or in the community who could use the services of the Public Trustee, but there is no speedy inexpensive method for the appointment of the Public Trustee to perform these duties;

(3) There are an increasing number of patients who require elective surgical procedures, but for whom there is no person available to give the consent required under the present legislation;

(4) In proceedings before the Family Court, particularly with respect to custody or wardship, there is no adequate provision for representation of an incompetent spouse;

(5) Legislation dealing with charitable organizations has not had a comprehensive review for some time. Although the Mortmain and Charitable Uses Act has been repealed, consideration should be given as to whether the remaining charitable legislation provides adequate direction and control in the present financial and taxation climate;

(6) As a result of the discharge or death of patients in psychiatric facilities, there are a substantial number of estates in which small balances remain unclaimed. Experience indicates that these sums are not likely to be claimed at any time in the future, and some arrangement should be considered for their disposition.

Details of Funds Invested as at March 31, 1982

	Schedule A	
	1982	1981
Bank term deposits	\$ 16,700,000	\$ 11,818,690
Bonds (schedule C)	88,637,762	88,625,520
Accrued interest	2,416,373	2,190,678
Cash in bank	56,635	90,882
	<u>\$107,810,770</u>	<u>\$102,725,770</u>
Allocated as follows:		
Estates and Trusts	\$ 87,945,770	\$ 87,745,770
Administration Fund account	19,865,000	14,980,000
	<u>\$107,810,770</u>	<u>\$102,725,770</u>

The Ministry of the Attorney General

Income from Funds Invested Year Ended March 31, 1982

		Schedule B
	1982	1981
Interest earned on investments	\$ 10,494,887	\$ 9,583,453
Interest earned on bank accounts	236,326	221,782
	<u>10,731,213</u>	<u>9,805,235</u>
Deduct interest allowed	5,804,523	5,868,697
Income from funds invested, net	<u>\$ 4,926,690</u>	<u>\$ 3,936,538</u>

Details of Bonds as at March 31, 1982

		Schedule C
	Par value	Amortized cost
Province of Ontario	\$ 13,450,000	\$ 13,435,820
Ontario Hydro	75,687,000	75,201,942
	<u>\$ 89,137,000</u>	<u>\$ 88,637,762</u>

COURTS ADMINISTRATION DIVISION

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

M. S. Fitzpatrick,
Inspector of Legal Offices and
Deputy Director of Courts Administration

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the administration of the courts in Ontario including:

- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and courts registrars, Criminal and Family Court administrators, Small Claims clerks and bailiffs;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- regulating the appointment of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;

- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French-Language Services in the courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

Supreme, County and District and Surrogate Court Offices

R. W. Schurman,
Director

B. C. Pitkin,
Deputy Director

The office of the director provides administrative direction for the Supreme, County and Surrogate Courts and Sheriffs' offices. In liaison with a regional co-ordinators' council, the office develops and implements Ministry policy relating to procedures and methods, and provides for the day-to-day delivery of the program.

In addition to the Courtroom Procedure and the Supreme and County Court Flow Chart manuals that were introduced in the 1979-80 fiscal year, the branch issued a Policy Directives manual this year for Court Clerks and Sheriffs. The manual is of loose-leaf design and will be expanded and updated as required. The manual is proving extremely useful in promoting greater uniformity of practice throughout the Province.

In response to the difficulty of providing consistent responses to execution searches, a guideline was developed that will ensure that execution searches are conducted in a uniform manner throughout Ontario. The guideline was developed with the assistance of the Crown Law Office – Civil and becomes effective on May 1, 1982. The introduction of the guideline has the second advantage of making computerization of the Sheriffs' search system a possibility.

Training seminars were conducted on a regional basis during this fiscal year for Sheriffs and Local Registrars. The seminars were aimed at resolving specific difficulties being experienced by officials. They proved very successful and have assisted in promoting uniformity of practice.

Court Reporting Services

Tom Moran,
Manager

The manager is responsible for provision of administrative control and direction of all reporting services to all courts in the province, including special examinations and certain boards and commissions. The manager is also responsible for the establishing of reporting standards, the development of reporter training programs and the development and implementation of approved policies and the provision of direction and support to the offices of Special Examiners in Toronto, Ottawa, Windsor, Hamilton, St. Catharines and Timmins.

There are currently 370 staff reporters supplemented by about 320 freelance reporters in the province. Shorthand and Stenomask continue to be the prime reporting method, with electronic recording systems being used primarily in provincial offences courts and examinations for discovery.

Because of the increase in trials being conducted in both official languages the development of reporters with bilingual capabilities continues to receive priority. As a result of our efforts in this area we have been able to increase the Ministry resources to the point where bilingual reporting services are available province-wide.

With the co-operation of the Court Reporters' Association of Ontario a Manual of Court Reporting has been developed, covering all aspects of reporting and standardizing reporting and transcribing procedures. In order to familiarize reporters with the manual a number of workshops are being

conducted in various centres throughout the province. The Court Reporters' Association has also worked closely with the Ministry in implementing a training and certification program for all reporters using electronic recording systems.

The George Brown College court reporting course continues to be the main source of trained court reporters. With the co-operation of the chief County Court reporter a number of reporter graduates from this course have been brought into the system on a student trainee basis. When their skills are fully developed to the required level they are used on a freelance basis to supplement our regular reporting staff.

The Chartered Shorthand Reporters' Association continues to offer an opportunity to Shorthand reporters to upgrade their skills to C.S.R. standards by conducting special classes on Saturday mornings.

Provincial Court Offices

A. K. Mackay,
Director

D. J. Pringle,
Deputy Director

The administrative staff of the Provincial Court Offices provides clerical, stenographic, court support and court reporting services for the Provincial Courts, both Criminal and Family Divisions, and the Provincial Offences Courts (combined with criminal division courts). The staff also provides accounting, recruitment, training and other services required by the Ministry.

Government constraints over the past several years have increased the pressure on the court managers and has required a great deal of managerial skills to cope with increasing workload with fixed manpower resources.

Family Court Office Standards

Family Court office standards have been in place since January 1, 1980. A review of the initial program took place during this past year. A committee consisting of three Family Court administrators was established to review the manual and make recommendations for changes. All Family Court administrators throughout the province were encouraged to participate. A yearly review is anticipated.

The Ministry of the Attorney General

Criminal Court Office Standards

Criminal Court office standards were also reviewed by a committee of three Court Administrators, with input from court administrators throughout the province. The manual is reviewed and updated annually.

Provincial Offences Act

The Provincial Offences Act, which came into effect on March 31, 1980, has extensively changed the procedures covering the prosecution of the provincial statutes and municipal by-laws (excluding parking). The majority of absentia trials have been eliminated and the court time for Justices of the Peace and police has been greatly reduced.

Caseload

The caseload in the Provincial Courts (Criminal Division) throughout the province has stabilized. Pending caseload has shown a major improvement, in particular, in Criminal Code and Narcotic cases. Based on statistical data, the numbers of charges received in the Family Courts has shown no significant increase over the last year.

New Court Systems and Methods

The mini-computer system implemented in Oshawa three years ago has proven very successful. Oshawa now has the highest production for court staffs in the province. Management Board has approved implementation of a similar system in Hamilton, Ottawa, Peel Region, Windsor, London, Kitchener-Waterloo and Newmarket. A starting date in June, 1982, is scheduled for Hamilton to be followed by

Peel	August, 1982
Ottawa	September, 1982
Newmarket	November, 1982
London	January, 1983
Windsor	March, 1983
Kitchener-Waterloo	June, 1983

A link-up with the main computer system in Toronto, which is to be upgraded, is expected within a few years. Including the Toronto office, the above centres process approximately three million of the four million cases handled each year by the Provincial Court (Criminal Division) in Ontario.

Provincial court offices process a tremendously high volume of public inquiries in cases ranging from parking violations, H.T.A. violations and

major criminal cases. The new system, not only makes retrieval of information in seconds, thereby providing better service to the public on inquiries, but also updates records, produces court lists, notices to the public and driving license suspension orders. It also improves the scheduling of traffic court cases as well as producing financial and management reports on the court.

Training and Staff Development

The Provincial Courts have continued their participation in the Ministry's Management Development Program. The continuing development of basic management skills, effective communications, organization and managerial behaviour, performance problems and assertive management is one of the reasons many of the new programs have been implemented so successfully. This training is provided in co-operation with the Ministry's Human Resources Management Branch and Sheridan College of Applied Arts and Technology. The program ensures a continuing managerial development program for our managers and staff, commencing at Phase I and moving through in stages to Phase VI.

In June, 1982, the first group of participants will be receiving their Business Management Studies Certificates from Sheridan College, having completed all six phases of the Management Development Program. The 38 graduates will include personnel from the Provincial and County Courts, Sheriff's office and Assessment Review Court and some Head Office personnel.

The Workshop for Bookkeepers was again offered this year to those individuals assigned as bookkeepers or related functions, and also those persons seeking a career change.

The Customer Relations Workshop, which was developed for personnel from the Metropolitan Toronto Criminal Court and Family Court offices, has been expanded to areas outside of Toronto. A special course has been designed for supervisors and assistant supervisors. These courses provide insight and techniques for supervisors and staff in communication skills and in dealing with the thousands of persons who attend the courts daily.

In addition to the above, numerous employees participated in courses offered by the Civil Service Commission. Tuition assistance for courses in various colleges and universities was furnished to those employees wishing to attend to further their careers.

Staffing Standards

Staffing standards have now been established in the Provincial Court Criminal Divisions offices, as well as the Family Courts and Combined Family and Criminal Court offices. These will be reviewed annually and adjustments made accordingly.

Small Claims Courts

Ron McFarland,
Director

The Director of Small Claims Courts provides administrative direction to 121 Small Courts and four Divisional Offices of the Provincial Court (Civil Division) throughout the Province. The Director is responsible for the planning and preparation on the needs of the Courts, both Judicial and Administrative and for filling staff vacancies.

Activity

During the latter part of 1981, an in-depth evaluation of the Provincial Court (Civil Division) was conducted to determine the strengths and weaknesses of the "new system" by the Judiciary and users of the Courts. While the results have not been published, it is apparent that the general public and litigants are satisfied with the Court. The Court has met the goals that were laid down, i.e. accessibility to Courts, reducing the expense and delay of litigation.

As reported last year, 23 Courts were designated as Bilingual Courts. To this number, an additional 14 Courts were added.

Designated County/District Judicial District

Algoma

Small Claims Court

*1 Sault Ste. Marie
*3 Thessalon
4 Wawa
7-8 Elliot Lake

Cochrane

1 Cochrane
2 Timmins
4 Kapuskasing
6 Iroquois Falls

Essex

*2 Amherstburg
*5 Kingsville
7 Windsor

Niagara South

1 Welland
4 Niagara Falls

Nipissing

1 Sturgeon Falls
3 North Bay

Ottawa-Carleton

7 Ottawa

Prescott-Russell

7 Hawkesbury
10 Rockland

Renfrew

*1 Pembroke
*3 Renfrew
*4 Arnprior
*7 Killaloe

Stormont, Dundas & Glengarry

2 Alexandria
3 Cornwall
*6 Iroquois
*10 Winchester

Sudbury

1 Sudbury
3 Espanola
5 Chapleau

Timiskaming

1 Haileybury
3 Englehart
4 Kirkland Lake

York

*Provincial Court
(Civil Division)
*Toronto
*Etobicoke
*North
*Scarborough

*Additional Courts

New Initiatives

Staffing Standards

The necessary criteria for developing staffing standards for the Small Claims Courts and Courtroom has been determined. It is the intention of the Ministry to establish these standards in the larger volume offices in the next fiscal year.

Training and Staff Development

As reported last year, the Ministry has commenced to up-date the manuals of operations for clerks and bailiffs, new or revised forms have been developed and introduced into the system. When the manuals are completed, a series of seminars will be given in regional districts throughout the province.

New Court Systems and Methods

During the past year, the Ministry has studied the viability of introduction of mini computers in the Small Claims Court offices. It is the intention of the Ministry to implement a system for use in Metropolitan Toronto in the coming year.

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Small Claims Court Judges	
Number of Full-Time Judges	11
Judicial District of Hamilton-Wentworth	1
Judicial District of Niagara North and South	1
Judicial District of Ottawa	1
Judicial District of York	8

Courts and Office Accommodation Planning

W. M. Thomson,
Administrator

This branch provides general administration of all court and office accommodation throughout the Province, as well as liaison with the Ministry of Government Services in all capital, leased and alteration projects required by the courts.

Projects Completed

Enlarged court facilities and a holding area were provided for the Provincial Courts (Criminal and Family Division) in Picton.

An extension to the Bracebridge County Court House provided one courtroom for the Provincial Court (Criminal Division) as well as additional waiting and interview space.

An additional courtroom was provided for the Provincial Court (Criminal Division) in Windsor.

Pending enlargement and renovations to the Provincial Court (Criminal Division) in Brampton, an interim courtroom was provided in the Registry Office.

A three-courtroom Provincial Court (Criminal Division) facility with administrative, interview, waiting, police and holding areas was completed in North Bay.

In Moosonee, Provincial Court (Criminal and Family) facilities were provided in the Government Consolidated Building.

A one-courtroom Provincial Court (Family Division) facility with supporting office space was provided in Oakville in the extension to the City Hall.

In Kenora more adequate Law Association and interview facilities were provided in the District Court House.

Interim office space was provided in L'Orignal for the Crown Attorney pending relocation to the County Building.

Improved lighting was provided for Courtroom #1 in Peterborough.

Additional space was provided at 180 Dundas Street West for the Official Guardian.

Under Construction

Construction is well underway on the St. Catharines Court House with completion scheduled for late 1983. The Court House will accommodate Supreme, County, Provincial Courts (Criminal and Family Divisions) and Small Claims Court.

Renovations and re-alignment of office space at 18 King Street East is underway.

Construction is in progress to expand the present Provincial Court (Criminal Division) facilities at 141 Clarence Avenue, Brampton, from a five-courtroom to an 11-courtroom facility.

A relocation of court support functions from the County Court House to the adjacent expansion space within the Court House is underway in Sudbury.

Construction to provide three-courtrooms for Provincial Court (Criminal Division) and Small Claims Court is underway in Hamilton.

In Cambridge construction is underway for relocation of the Provincial Courts (Criminal and Family Divisions).

In Kingston a three-courtroom Provincial Court (Criminal Division) facility complete with all support functions and holding areas is under construction in the Government Consolidated, McDonald-Cartier Building.

Work started on the provision of office accommodation for the Public Complaints Commission in Toronto.

Additional space for the Sheriff is under construction in the Northumberland County Court House, Cobourg.

Construction is underway in the Hamilton-Wentworth County Court House, Hamilton, to provide additional jury deliberation room, a new elevator and proper security circulation.

In Planning/Lease Search/Negotiations

In Timmins negotiations have been concluded to obtain additional space for the District and County to provide more efficient space utilization and construction will begin in the near future.

Potential sites have been identified in Welland for the relocation of the Provincial Court (Criminal Division).

Lease negotiations have been concluded to provide a three-courtroom Provincial Court (Criminal and Family Division) facility in Peterborough.

In Chatham lease negotiations have been concluded to relocate the Provincial Court (Family Division) facilities.

A site has been determined for the relocation of the Provincial Court (Criminal Division) in Oshawa and negotiations are continuing.

A potential site has been identified for the Provincial Court (Criminal Division) in Whitby and Design Services have been requested.

Advanced design sketches are being prepared for a Court House in Ottawa to house Supreme, County, Provincial Courts (Criminal and Family) and Small Claims Court.

Studies are underway for additional facilities, utilizing the seventh floor of the York County Court House in Toronto.

Contract documents have been completed and tenders will be called in the near future for a one-courtroom, Provincial Court (Criminal Division) extension to the Parry Sound County Court House.

A feasibility study has been concluded for the expansion and consolidation of court facilities in Orangeville. Dufferin County will appoint an architect to prepare contract documents.

A lease search is continuing for appropriate premises for additional Provincial Court (Family Division) facilities in Metro Toronto. Contract documents have been completed and tenders will be called in the near future for air conditioning in the County Court House, Chatham.

Contract documents have been completed for a connecting link between the County Court House and Registry Office in Sudbury.

In Thunder Bay, a list of requirements for the County Court House, is being prepared.

Additional space for the County Court House in Walkerton has been identified and planning will start in the near future.

Additional chamber space is being sought for Small Claims Court Judges in Toronto.

In Alexandria a lease search is being conducted for the Provincial Court (Criminal Division)

Planning is presently in progress for interim space for the Provincial Court in Collingwood during the retrofit of municipal building by the Town of Collingwood. Negotiations are also underway regarding more adequate facilities for the Courts in the renovated municipal building.

A lease search is in progress in Smiths Falls to provide office space for the Provincial Court (Family Division) Judge.

Contract documents have been completed and tendering is scheduled in the near future for renovations to the Provincial Court (Criminal Division), Old City Hall.

Provincial Courts (Criminal Division)

Chief Judge F. C. Hayes

Associate Chief Judge H. A. Rice

Court Sittings

During the past fiscal year, the Provincial Courts (Criminal Division) continued to hold sittings on a regular basis at approximately 149 locations throughout Ontario with multiple courtroom establishments at approximately 25 locations. The court was faced with a continuing change in the nature of the caseload, such as a greater number of substantial prosecutions arising from complex commercial transactions, more charges where a number of individuals are jointly charged with criminal and/or narcotic offences and an increasing number of prosecutions under miscellaneous federal and provincial statutes.

There have been continuing efforts made throughout the Province to maximize the use of available judicial personnel and facilities by introducing a number of changes in court scheduling procedures. In addition, substantial emphasis continued to be placed on an early review of the nature of the case by both Crown and Defence Counsel with a view to narrowing the issues before the court so as to more accurately estimate the amount of court time required for the trial or preliminary hearing.

Efforts continue to be made by the Chief Judge's office to obtain a degree of uniformity in the time

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between the laying of the Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of judges to various areas of the province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e. cases occupying one day or more) totalled approximately 849 in 1981-82. Special matters being prosecuted by representatives of the federal Department of Justice accounted for 164 courtroom days and special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 658 courtroom days in 1981-82. The movement of judges from Metropolitan Toronto to other areas for special relief increased by some 31.89 per cent from 812 days in 1980-81 to 1071 days in 1981-82. Included in the 1981-82 figure are additional sittings of the court on a regular basis in Brampton, Dundas, Kitchener and Newmarket.

The demand continued for the court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings. An increase over the past few years in the level of law enforcement has led to a greater number of charges and we have been unable to meet all the demands for additional sittings in various areas of Northwestern Ontario.

Provincial Offences Act

The Provincial Offences Act and the companion amendments to the Provincial Courts Act, which legislation resulted in the establishment of the Provincial Offences Court, were proclaimed as of March 31, 1980.

The sittings of the Provincial Offences Court were established on a four-tier system at most locations throughout the province with the sittings being at 9 a.m., 10:30 a.m., 1:30 p.m. and 3 p.m.

This results in a more intensive use of the physical facilities and in the citizen who is charged and all necessary witnesses only being required to attend at the court premises for not more than 1½ hours.

The provisions of the Provincial Offences Act provide the defendant with an opportunity of pleading guilty with an explanation in a plea of guilty courtroom. The sittings of the Provincial Offences Court for the purpose of accepting pleas of guilty with an explanation have been established at various court locations throughout the province on such a basis as to afford the defendant an opportunity to plead guilty with an explanation within a 15-day period.

The provisions of the Act requiring the defendant, if he wishes to plead not guilty, to indicate his decision within 15 days has resulted in improved scheduling procedures and a more efficient use of personnel and physical resources.

Court Visitations

The Chief Judge visited a number of areas of the province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also held their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory offence caseload and various alterations have been made to case scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Bilingual Court Services

On proclamation of Bill C-42, arrangements were completed to provide a trial, and where resources are available on a consent basis, a preliminary hearing, before a French-speaking or a bilingual judge when so requested throughout the Province of Ontario. This is an expansion of the bilingual service which was being provided in certain areas of the province where trials were proceeding before a French-speaking or bilingual judge on a consent basis.

Pursuant to the provisions of the Judicature Act certain Provincial Offences Courts have been designated for the provision of bilingual trials.

Adjournments in the Provincial Courts (Criminal Division)

The practice direction by the Honourable W.G.C. Howland, Chief Justice of Ontario, with respect to adjournments in the Provincial Courts has continued to be of very substantial assistance in

facilitating the setting of trial dates and has resulted in fewer trials not proceeding on the appointed day.

Judicial Education

The Office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the judges. The Law Clerk assigned to the staff of this office continued to prepare appropriate annotations for recently reported judgments and to carry out research in areas of criminal law relevant to the Provincial Courts (Criminal Division), including rendering assistance to judges in their preparation of judgments.

The Judges Education Program was held at the University of Western Ontario again this year. This program permits a judge, once every three years,

to live for one week in a university setting and to participate in a program consisting of lectures, discussions and videotapes.

The Provincial Judges Association (Criminal Division) continued with its education program composed of regional education and sentencing seminars.

The judges of the court have, with the co-operation and assistance of the Chief Justice of Ontario and the members of the Court of Appeal, attended in groups of six to observe the presentation of Criminal Appeals and thereafter meet with the members of the court.

A number of judges also attended at conferences and seminars sponsored by such organizations as the Canadian Association of Provincial Court Judges, the Canadian Institute for the Administration of Justice and the Canadian Bar Association.

Judicial Appointments

	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980	As of Mar. 31 1981	As of Mar. 31 1981
Provincial Judges in Ontario						
Number of Full-Time Judges, including Chief Judge	128	129	137	141	147	147
Number of Judges Retired or Deceased or on L.T.I.P.	5	8	5	9	5	7
Number of Judges Appointed	15	8	12	12	9	5
Number of Part-Time Judges	2	2	1	1	1	1
Number of Judges on Extension	4	6	5	10	12	14

As of March, 1982, nine of the above Judges were also presiding in the Family Division.

	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979	As of Mar. 31 1980	As of Mar. 31 1981	As of Mar. 31 1982
Provincial Judges in Metropolitan Toronto						
Number of Full-time Judges, including Chief Judge	36	34	40	48	53	50
Number of Full-Time Judges, Deceased or Resigned	0	2	1	2	0	2
Number of Judges Appointed	8	0	7	10	5	1
Number of Judges on Extension	1	2	2	3	2	3

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Statistics

The statistics indicate the following changes within the system:

	<u>1980-81</u>	<u>1981-82</u>
Charges Received — All Statutes		
Metropolitan Toronto	1,979,943	2,577,956
Remainder of Province	<u>1,907,122</u>	<u>1,963,130</u>
Total	<u>3,887,065</u>	<u>4,541,086</u>
Dispositions — All Statutes		
Metropolitan Toronto	1,726,333	2,240,030
Remainder of Province	<u>1,970,980</u>	<u>1,976,037</u>
Total	<u>3,697,313</u>	<u>4,216,067</u>
Dispositions — C.C.C.		
Metropolitan Toronto	113,300	111,187
Remainder of Province	<u>249,094</u>	<u>246,276</u>
Total	<u>362,394</u>	<u>357,463</u>

General Comments

Substantial emphasis is and will continue to be placed on encouraging pretrial disclosure in criminal matters.

In addition to these efforts, we are continuing to have a Provincial Judge or a limited group of Provincial Judges assigned to a particular section of the caseload on a continuing basis until that portion of the caseload has been finalized. This type of assignment and scheduling arrangements, which has been in operation at the additional court facilities at College Park in Toronto since September, 1979, was implemented in the courts at the Old City Hall in September, 1980, and it would appear that it is assisting in achieving an earlier disposition date for the matters coming before the court.

Provincial Courts (Family Division)

Chief Judge H.T.G. Andrews
Associate Chief Judge Robert J. K. Walmsley

Jurisdiction

The current authority of the Provincial Courts (Family Division) includes the following matters:

1. Prosecutions under the federal Juvenile Delinquents Act in respect of the criminal conduct of infant offenders (juvenile delinquency) and criminal conduct against infant victims (contributing to delinquency).
2. Child protection under The Child Welfare Act, dealing with intervention through Children's Aid Societies into a family's life, when its care and

treatment of children fall below certain minimal standards.

3. Adoption under The Child Welfare Act, dealing with the dissolution of old parent-child relationships and the legal establishment of new ones.

4. Inter-spousal rights and obligations under The Family Law Reform Act and The Reciprocal Enforcement of Maintenance Orders Act, covering such things as financial support of a dependent spouse, exclusive possession of the matrimonial home and protection from spousal harassment and molestation.

5. Parent-child rights and obligations under The Children's Law Reform Act, The Family Law Reform Act and The Reciprocal Enforcement of Maintenance Orders Act, such as custody and access, findings of paternity, child support and protection from harassment and molestation by the non-custodial parent.

A massive amendment to The Children's Law Reform Act took effect in the summer of 1982. The amendments codified and reformed Ontario's law of custody and guardianship. Provincial Courts (Family Division) were given jurisdiction to handle matters under this new and expanded statute.

In this connection, a constitutional reference decided by the Supreme Court of Canada in January, 1982, seems to have had some impact on the volume of certain domestic cases coming before the Provincial Courts (Family Division).

The Reference re Section 6 of The Family Relations Act of British Columbia has seriously questioned the constitutional jurisdiction of provincially appointed judges to adjudicate on exclusive possession of the matrimonial home and protection from harassment and molestation. As a result, the trend of legal counsel has been to bring their applications before Courts presided over by federally-appointed judges.

The federal Young Offenders Act (which is to replace The Juvenile Delinquents Act at some unspecified future date, possibly in 1983) will expand the jurisdiction of the courts by its inclusion of crimes committed by 16- and 17-year-old youths. It is still too early to speculate about the impact of the Canadian Charter of Rights and Freedoms on the work of the Provincial Courts (Family Division).

Provincial judges also have the authority to try many offences under the federal Criminal Code and under The Provincial Offences Act of Ontario. Many intra-familial offences (such as domestic assaults and incest) are heard by judges who, while they normally preside over their local Provincial Court (Family Division), reconstitute their court as the local Provincial Court (Criminal Division) or Provincial Offences Court because only the latter courts have the jurisdiction to hear these criminal and regulatory matters.

Administration

Judicial and administrative activities of the Family Division Courts were carried out by 73 judges.

Chief Judges	2
Full-Time Family Division Judges	57
Full-Time Family Division Judges on Leave of Absence	2
Part-Time Judges	1
Per Diem Judges	2
Judges Serving Both Criminal and Family Divisions	9
Total	73

(Unified Family Court complement continues at 4)

The following changes in the Judicial Roster took place during the year:

Judicial Appointments	4
Judicial Retirements	2
Extensions of Service	3

Three staff members were appointed Justices of the Peace between April, 1981, and July, 1981.

There are 37 full-time Family offices and 17 combined Family and Criminal Division offices. These 54 offices provide the support services for sitting which are held at 121 locations throughout the province.

Final Dispositions		
	1980/81	1981/82
Family Law Reform Act	37,591	41,990
Child Welfare Act	22,112	19,973
Juvenile Delinquents Act	33,667	32,614
Other Statutes	5,468	5,027
Total	98,838	99,604

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Office of the Chief Judge

This was an active year for the Chief Judge's Office. An additional judge joined the staff bringing the total to four judges in residence.

Two of the judges have served as relief judges throughout the province, sitting 254 days in various locations. This is in excess of time provided by the Chief Judges.

Major papers on consent orders, enforcement, legal representation of children and other topics were prepared.

One-thousand-four-hundred applications were processed for 50 positions in the Experience '81 Program.

Eighty-seven mailings containing 153 judgments as well as memorandums and other miscellaneous material went out to judges, court administrators and other subscribers to the service.

The Chief Judge visited 25 courts during the year; the Associate Chief Judge visited 32.

Preparations were made for the implementation (April 1, 1982) of bilingual trial capacity in 16 locations.

Training and Development

The Ontario Family Court Judges' Association held its Spring Seminar in April, 1981, and its Annual Meeting in September of that year.

Twenty-two judges participated in 15 seminars and conferences in Europe, the United States and Canada.

Budget restrictions prevented the presentation of fall programs of the Judicial Development Institute.

Regional Reports

Northwest Region

The Children's Services of the Ministry of Community and Social Services funds a variety of projects and programs in the region.

The emphasis in locations such as Armstrong, Nakina and Longlac is on family participation.

Day-Care Centres, Mental Health Programs and self-help groups are active at 20 locations within the area.

There has been concern over the termination of funding for the Crisis Intervention Program at Grassy Narrows. This has been an astoundingly successful program, reducing delinquency in the community by 75 per cent.

The Children's Aid Society for the District of Rainy River has organized a number of programs focused on prevention.

There continues to be an extensive use of Community Service orders in the Rainy River area.

The Board of Education in Fort Frances has undertaken The Operation Aware Program. Sponsored by Rotary and directed at fifth and sixth grade students, it aims at teaching children to meet negative peer pressure.

It is regretted that the City of Thunder Bay's Harbour Boy's Club will cease to function in July, 1982. This has been a one-of-a-kind, eight-bed residential facility which has been an alternative to training school.

Excellent juvenile diversion programs are active in The Thunder Bay District. In the City of Thunder Bay over 100 children a year are moving through the program.

In the satellite Courts at Longlac and Geraldton the diversion programs are proving successful to populations of 3,500 each.

The "Teen Family Program" in the City of Thunder Bay had referrals for 472 children and 147 families.

The Observation and Detention Home at Thunder Bay provided 1593 days of care during the past year.

North Central Region

Community problems have prevented the development of an Observation and Detention Home in Timmins. Therefore, children must be brought to Sudbury.

Continual liaison has been maintained with Timmins and Sudbury area offices of the Ministry of Community and Social Services, Children's Division, to assist in better utilizing the precious resources and funds for children in the North Central Region.

Funding has been a problem in the Regional Child Care Centre in Sudbury which services all of the North Central Region. They used to have 10

adolescent beds available and now only have eight, resulting in a crisis situation for youngsters awaiting secure treatment.

A seminar on Juvenile Dispositions was conducted in Sault Ste. Marie in December, 1981, following up on three previous sessions. The seminars deal with what is done with juveniles after a finding of guilty. They inform lawyers and the people they work with of the various choices available in the community.

The number and length of child welfare trials is increasing. Pre-trials are now being held on all long child welfare cases but settlements only being reached in about 50 per cent of the cases.

The court in Sault Ste. Marie has a Prevention Intervention Program (PIP) for first offenders.

Observation and detention facilities and assessments are also available to this court.

The Ministry of Community and Social Services provides a parental support worker to assist in its enforcement program.

The court functions would be greatly enhanced if regular assistance from legal aid duty counsel was available as well as the services of a conciliation worker.

Southwestern Region

Diversion systems are in place within the counties of Bruce, Essex, Grey and Kent.

Facilities for detaining juveniles are available to all of the courts within the region although the facility may be located in another county.

Psychological assessments are obtainable for all of the region's courts.

Parental support workers from the Ministry of Community and Social Services are providing services to all courts with the exception of Perth County.

Legal Aid is available to all courts in the area.

With the exception of the County of Essex, which has an increased backlog, the courts report that they are not experiencing any scheduling problems.

Bruce, Kent and Grey are in need of enlarged premises.

Bruce, Middlesex, Essex and Lambton are in need

of counselling and conciliation services. Essex requires a court clinic.

In Middlesex and Huron Counties problems with the Legal Aid Program are being worked out.

Middlesex has structured a "Breakfast Committee" for discussion between local judges, the Children's Aid Society and members of the bar.

Lambton and Elgin Counties continue to put emphasis on their enforcement programs. The Lambton County judge has been moved into new, temporary accommodation with the rest of the staff to follow. The new court should open next year. A Family Court Advisory Council is active in this area.

Central West Region

Waterloo continues to provide conciliation and counselling services to Court clients on a 12-months-a-year basis. The service is staffed by four to five postgraduate students from the school of social work at Wilfrid Laurier University. The supervisor holds a masters degree in social work. The students deal with problems of access, conciliation and reconciliation.

This is the sixth year of Waterloo's highly successful Diversion Program. It is staffed by volunteers and supervised by probation and after-care workers. This year saw the expansion of the program to Grey and Wellington Counties.

Semi-secure detention facilities are available within the region. Secure facilities are located at London, Hamilton and Oakville.

The Ministry of Community and Social Services' Parental Support Program is available to courts within the region.

Waterloo has an innovative program to assist court clients. It has worked out a system with the local bar whereby articling students attend at the court one morning and one afternoon of each week. While they cannot give legal advice to clients they can assist the unrepresented to complete forms and they can explain the court processes to them. This takes some of the strain from Legal Aid Duty Counsel.

The Waterloo-Wellington Attendance Centres Project continues to meet with success. Established in 1980, staffed by The John Howard Society and volunteers, it is funded by the federal Solicitor

The Ministry of the Attorney General

General and the Ministry of Community and Social Services. An early delinquency prevention model project, the Centres are open to truants four or five evenings each week. Attendance is voluntary and usually at a maximum. The project has received community support and law enforcement backing.

Central Region

Waiver applications and a marked increase in the duration of contested child welfare trials during the year have placed a strain upon the scheduling systems of the regional courts.

Careful monitoring of schedules and innovative procedures such as Peel County's Assignment Court, periodic 'blitzing' of backlogged matters by regional judges and the extensive use of volunteers has helped to maintain standard service delivery to the public.

Under the supervision of provincial probation officers, restitution and community service order programs continue to provide a most effective alternative disposition in juvenile matters.

There has been a gratifying continuity of close interaction between the courts and their respective communities throughout the year. York region has formed a Family Court Services Committee composed of representatives from the local bar and all of the allied court services. Etobicoke's five-year-old version of this committee continues to flourish.

The regular presence of the Crown Attorney in Family Courts now is a proven asset. Prosecuting in juvenile matters, preparing and processing cases of domestic assaults, working with court social workers and police has improved the flow of cases immeasurably at the Jarvis Street court and more recently at Scarborough. The service should be expanded to other courts in the region.

Eastern Ontario

The Family Law Reform Act Conciliation Service was expanded from the Ottawa-Carleton Court to Stormont, Dundas and Glengarry. The Ottawa Court service continues active.

The probation and after-care service of the Ministry of Community and Social Services in conjunction with the Ottawa Court are involved in several

programs that seek to repair the broken social fabric when crime is committed by juveniles. In particular, there is a Community Alternatives Program that attempts to provide restitution to victims of crime, or, in the alternative, if that is not feasible or desirable, to provide community service work orders.

Frontenac County continues to provide leadership in innovative programs. Its Diversion Committee has succeeded in including high school students as active participants in its deliberations.

In the Counties of Hastings, Prince Edward, and Lennox and Addington, judicial orders for the performance of community services by juveniles are supervised by Probation and Aftercare staff. During the year, a novel Assessment Program has been initiated. Funded by the Ministry of Community and Social Services, The Children's Assessment Centre provides assessments for juveniles and families and assists the Court in final deliberations.

There is an active Juvenile Court Committee in Lanark County.

The resident judge in Renfrew County has been conducting mock trials in Renfrew and Pembroke. These trials increase awareness of the court and its activities for foster parents.

The Renfrew Court has worked with the Ministry of Community and Social Services in the development of a child-care centre called 'Phoenix Centre'. Among its activities is the provision of detention facilities for juveniles and children in need of protection under The Child Welfare Act.

This area requires a community based mediation or conciliation service.

Under present court demands, the Eastern region of the province requires additional judicial complement. An additional judge would be able to assist the needs of Stormont, Dundas, Leeds and Grenville, Prescott and Russell.

The region looks forward to improved facilities at 311 Jarvis Street; relocation of future facilities in areas closer to the court-client population; studies on the feasibility of computerizing the enforcement arm of the courts; and improved scheduling capabilities.

Central East Region

With respect to counselling and conciliation, Simcoe Children's Aid Society provides limited counselling where children are involved as well as one-day-a-week marriage counselling at the court.

In Peterborough, counselling services are carried out by Family Counselling Services funded by the United Way. Other areas must purchase services from local professionals.

In the Judicial District of Durham, the Court Clinic administers volunteer staffed conciliation services.

Juvenile Diversion Committees are active in the County of Peterborough, the Judicial District of Muskoka and Simcoe County. Barrie relies on its 'Resource Group' for providing the court with recommendations.

In the County of Simcoe there is still a serious lack of in-patient psychiatric services for juveniles. Assessments are, however, available in Barrie and Collingwood.

Assessments are not available in Muskoka except for those provided by the Children's Aid Society on their wards.

The Judicial District of Durham relies upon the Ministry of Community and Social Services' Court Clinic which limits assessments to children before the court on Juvenile Delinquents Act matters.

In Northumberland, services are supplied by the Mental Health Unit of Cobourg General Hospital.

Simcoe and Muskoka have semi-secure observation and detention facilities. Open facilities are used by Durham and Northumberland. Secure detention for the region is found in Ottawa (for Northumberland) and at 311 Jarvis Street in Toronto. Secure detention facilities are needed closer to Cobourg.

Workers in the Ministry of Community and Social Services' Parental Support Program are available to all of the courts in the region.

PROGRAMS AND ADMINISTRATION DIVISION

Glenn H. Carter,
General Manager

Function

This Division of the Ministry is responsible for the

direction and co-ordination of the Ministry's support services including:

- information and computer systems
- budgeting, accounting and financial management
- administrative services
- program monitoring and evaluation
- statistical and reporting mechanisms
- audit operations
- personnel services
- program analysis
- supreme court accountant
- affirmative action program

During the fiscal year, in addition to its continuing efforts to comply with the Government's constraint measures, the Division has placed further emphasis on audit operations and the streamlining of court procedures.

Human Resources Management Branch

P.W. Clendinneng,
Director

Kathleen Grant,
Deputy Director

The Human Resources Management Branch is responsible for the development, co-ordination, and administration of the full range of personnel services within the Ministry of the Attorney General. This Branch also manages the program for the appointment of Justices of the Peace, Notaries Public, and Commissioners for taking Affidavits, and administers the Blind Persons' Rights Act on behalf of the Ministry.

The continuing policy of staffing and fiscal constraints coupled with the relocation of a number of government offices and the resultant surplus staff, required further modifications to the staffing policies and procedures. The Branch's responsibility to disseminate information on these controls and initiatives from the Civil Service Commission relating to policies, such as surplus staff, the handicapped, credentialism, and to maintain recruitment within these guidelines dominated the staffing function and led to the increased necessity of assistance and advice to managers on the best utilization of resources available. Every benefit was derived from

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provincially sponsored work programs and the Branch administered special staffing programs, such as O.C.A.P., CO-OP, the Summer Student Program, Experience '81 and Work Experience Weeks for the Ministry.

Position administration in support of effective organization and equitable salary treatment through classification review continued throughout the year. A major ongoing project was the Administrative Support Group where the Ministry with others in the service tested the application of proposed changes in class standards for Clerical and Office Service categories and relayed to the Civil Service Commission the evaluation of a broad range of Ministry positions. At the same time, the new Driver Class Series and the Social Work broad-banded group entailed the evaluation of appropriate positions for conversion to those groups.

The Branch continues to be responsible for the Ministry classified structure ceiling, maintaining records and monitoring proposed changes in its composition. In the coming year, modifications to the manpower control system are planned, including consolidation and mechanization.

The Ministry Training and Staff Development Program continued with courses being conducted in Toronto and at various locations throughout the province. Maximum use was made of all training resources, including the Civil Service Commission. An increase of 20 per cent in individual participants has been noted.

Pre-Retirement Programs were continued during 1981-1982 on a shared cost basis with other ministries in the Justice Policy Field. The programs for our Ministry are co-ordinated by the Employee Counsellor. Ten seminars were held in Toronto during the 1981-1982 fiscal year and were attended by 41 participants which included spouses. Evaluations continue to be extremely favourable and programs are continuing into the 1982-1983 fiscal year.

With effective staff relations guidance, interpretative advice on Working Conditions and the Employee Benefits Collective Agreement, branch staff assisted managers in resolving complaints whenever possible. Thus the total number of grievances in 1981/82 decreased 21 per cent over the previous year.

A new records system for Notaries Public and Commissioners for taking Affidavits was successfully implemented during the past year,

resulting in improved service, and internal control. This represents the final phase of the policy and procedure upgrading which commenced several years ago, and the results are very satisfactory.

Program Analysis and Implementation

John R. Rowsome
Director

Three cost centres have been amalgamated into this new Branch which began operation in March, 1982, as part of a Ministry reorganization. This initiative captures existing functions and personnel from various areas of the Ministry and in addition provides new activities and functions.

One of the major activities of the Branch is to provide internal co-ordination for, and a focus to, program planning and implementation, particularly where there is ongoing liaison and consultation required with the Central Agencies of the government. Also under this Branch's purview is the responsibility for the implementation of the Managing By Results Improvement Project as well as overseeing the analysis and planning function of the Ministry which determines the effectiveness and efficiency of programs and activities.

The Branch is responsible for the co-ordination of the logistical support for Royal Commissions and Judicial Inquiries on behalf of the government under the Public Inquiries Act. This Branch is also responsible for Task Forces and other Studies initiated by the Ministry of the Attorney General. Additional responsibilities include drafting, co-ordinating, and processing all Orders-in-Council and Regulations for the Ministry and administering the Public Institutions Inspection Act.

In the last fiscal year this Branch provided support to three Commissions/Inquiries and four Special Studies; prepared 416 Orders-in-Council and 21 regulations; and processed 98 Public Institutions Inspection Panel Reports. Total MBR coverage of operating programs represented 90 per cent of total Ministry resources. The Branch provided services concerning specific administrative issues arising from Ministry operations including preparation of various statistical and other evaluation reports in support of Management Board Submissions for budgetary and other programme adjustments. Staffing standards for the Provincial and County Courts were approved in the 1981-82 fiscal year and work on the administration of federal/provincial costs share agreements were continued.

Affirmative Action Program

Helen Bottaro,
Manager

The goal of the Affirmative Action Program is to achieve, by the year 2000, a minimum of 30 per cent female staff in all job classifications.

To monitor the achievement of this goal, hire/promotion targetting, a process of estimating the number of men and women who will win competitions in particular classifications within a fiscal year, is done. Targetting is followed by a competition monitoring process.

For the fiscal year 1981/82, 12 positions were identified as priority hire/promotion targets: seven positions at the level of Legal PM 14-19, three positions at the Legal PM 19-20 level, one position at the level of Law Administration AM-18, and one position at the General Administration AM-15 level.

During the year, 10 women were hired at the level of Legal PM 14-19, which enabled the Ministry to exceed its target by three positions, and also resulted in changing the classification from "under-represented" to "integrated" (i.e. more than 30 per cent of the positions were held target was also exceeded with five women being hired/promoted. At the levels of Law Administration AM-18 and General Administration AM-15, female candidates were not the best candidates, therefore the Ministry did not meet its targets in these areas.

Gains also occurred in other classifications in which women were under-represented. In 1981-82 the first female Legal Director was appointed in the Legal Branch, Ministry of Culture and Recreation (currently Citizenship and Culture), at the classification of Legal PM 21-24. This was an addition to the executive group within the Ministry. Two additional women were promoted to the level of Legal PM 21-24. A woman was also hired at the level of Clerk 3 Filing. In summary, there were gains for women in the Administrative and Professional Modules, the Administrative Services Category, and the Executive Group.

The provision of on-job training is also required to accelerate the career development of women. Throughout 1981-82 managers continued to provide on-job training to employees by means of acting appointments, secondments, rotations, other special assignments and special courses. A

total of 137 women were involved in such initiatives. The Affirmative Action Program also participated in the provision of on-job training by offering secondment opportunities to the positions of Program Assistant and Secretary. The Affirmative Action Incentive Fund enabled managers to provide training for an additional seven women. Special assignment programs were designed which included training as a Provincial Prosecutor, Office Manager, Criminal and Family Courts Administrator, Deputy Local Registrar, Deputy Sheriff, and Sheriff's Officer. In summary, a commitment was made to involve a total of 80 women in on-job training. With 144 women participating in various assignments, the Ministry exceeded its commitment by 71 per cent.

The Affirmative Action Program sponsored the participation of women in courses including:

- 25 women attended the Ministry's Management Development Program;
- 381 women participated in interministerial Affirmative Action Council workshops (these workshops were conducted by the Regional Delivery Task Force, which was chaired by the Program Manager, Ministry of the Attorney General);
- 18 women attended training sessions for new Affirmative Action Representatives; and
- 241 women participated in sessions to identify skills, write resumes, prepare for interviews and develop an assertive approach to job and career development.

Information sessions on the Affirmative Action Program were conducted for 197 managers and professionals and individual counselling regarding careers and other concerns was provided to 28 women.

Achievement in the areas of on-job training, hires and promotions and course participation were communicated to employees via the newsletter Focus.

Regarding job development, which concerns all women, the Affirmative Action Program attempts to improve the status of women with respect to classification, pay, benefits and working conditions. The Affirmative Action Program Manager participated in the development of new classification standards for the Office and Clerical Services Categories and the evaluation of working conditions and benefits proposals. To examine

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economic and social trends and evaluate their impact on female employees, the Program Assistant participated in the Affirmative Action Council Task Force on Research into Job Opportunities.

Finance and Services Branch

H.A. Gibbs,
Director

During the fiscal year 1981/82, the efforts of the Branch continued to be directed towards innovations leading to economies in the cost of administrative operations of the Ministry and directing attention towards areas where increases in revenue might reasonably be obtained.

On the cost side, the expanding use of computing resources within the Ministry is making it possible for our Records Management staff to promote and introduce the use of microfiche for providing historical records. This fact, plus the program for regular annual clearance of old records to destruction or to longer-term storage, is making it possible for court offices substantially to reduce their needs for filing cabinets and related floor space. The cost of paper usage goes up while the cost of computing goes down and moves to replace the former by technological substitutes are always very cost-effective.

With regard to Ministry expenditures generally, such fat as may have existed in the budget has long since been rendered out by tough economic times. Corners, such as those mentioned above, continue to be cut. For example, the renewal of the contract for the photocopying needs of the Ministry will also provide a useful lowering of costs. More emphasis is being placed upon ensuring that revenues due to the province are being realized, whether arising from unpaid fines or from fees for services provided by judicial offices.

Every improvement in our revenue collection arrangements is a positive reinforcement of the treasurer's efforts to bridge the gap between provincial expenditures and provincial revenues.

Audit Services Branch

J. Solymos,
Director

Audits

The newly developed terms of reference for the

Branch established by the Internal Audit Committee to give effect to the Ministry's audit policy in recognition of the comprehensive audit concept, were approved and adopted.

Implementation of the terms of reference was commenced with their distribution to officials throughout the Ministry, to be followed by their incorporation into the Ministry's Manual of Administration. Simultaneously, review of the existing organization and resources was undertaken, leading to commencement of restructuring of the Branch and acquisition of additional resources required to provide an effective audit service.

Throughout, the Branch continued to fulfil regular audit requirements in regard to court and judicial offices, branches, boards and commissions, as well as performing special assignments and investigations as required.

During the year, the structure of the Internal Audit Committee was modified by the transfer of its chairmanship to the General Manager, Programs and Administrative Division.

Efforts were initiated in the development of suitable audit programs to enable the Ministry to achieve the full intention of its audit policy.

In the coming year, completion of the Branch re-organization and development of the audit program and audit plan are anticipated to mark significant progress toward full implementation of comprehensive auditing within the Ministry.

Defaulted Fines/Licence Suspension System

Developments within the Ministry in recent years enabled the relocation of the administration of the system. Consequent to steps initiated early in the year, the transfer to the Provincial Courts Branch of the Courts Administration Division was effected at the end of January, 1982.

During the 10 months preceding the transfer, use of the pre-suspension notice in the Provincial Court (Criminal Division) for Metropolitan Toronto continued to be highly successful in producing a significant reduction in the number of licence suspensions. Development of other improvements to the system continued, while operations and results thereof remained at levels similar to those of the preceding year.

Due to relocation of the system, reporting on its operations and results will be provided by Provincial Courts (Criminal Division).

Information and Computer Systems Branch

D.H.S. Thornton,
Director

The Branch provides services to the Ministry in two separate areas of responsibility. One area is in the collection, dissemination and analysis of operational, statistical and management information. At present, the majority of information collected relates to the operation of the courts and to the Crown Attorneys' offices.

Monthly, quarterly and annual statistical reports are prepared on a regular basis for senior officials of the Ministry, Division and Branch heads and the Judiciary. In addition, a wide variety of special reports are prepared upon request.

The Branch continues in its efforts to improve data collection and dissemination services. Activities in this area included an update of the computerized statistical systems for the Provincial Courts, implementation of a courtroom utilization system and improvements in automated information retrieval systems.

The Branch also provides support to the various Branches and Divisions of the Ministry in the development and improvement of manual and computerized systems and in the field of management consulting.

Systems staff worked on a wide variety of maintenance and developmental projects during the current year. A growing interest in the use of computer technology in improving operations through the application of word processing, micro, mini and large-scale computer applications brought the Branch into contact with many other branches within the Ministry.

Projects of note included the continuing maintenance of Cyclops, a feasibility study into the replacement of Cyclops, a system to support the new Metro Toronto parking bylaw, the expansion of the mini computer network, Defaulted Fines Control Centre automation studies and Courtroom Utilization System for the Provincial Court offices. A word processing system for the Legislative Counsel was designed and implemented. The Assessment Review Court System was completed. Feasibility studies for Sheriff searches in York and the Provincial Court (Civil Division) were completed. Several word

processing applications were studied and implemented, including systems for Crown Counsel Civil Law and a case reporting facility for criminal cases in the County Courts in Metro.

The Branch continues to provide consulting and maintenance services to several branches, including the Public Trustee, the Financial Management Branch, the Accountant of the Supreme Court and for the Canadian Centre for Justice Statistics.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Duties

This office is the depositary for all money, mortgages and securities which are paid into, or lodged with, the Supreme Court of Ontario. These monies, mortgages and securities are received, and disbursed or released pursuant to judgments and orders of the Supreme Court of Ontario, and in accordance with the Judicature Act and other relevant statutes.

Assets

Assets under management at the end of the fiscal year 1982 totaled \$179 million from \$176 million the previous year.

Revenues and Investments

The interest revenue from the portfolio increased to \$18 million from \$16.3 million in the fiscal year 1980-81. Monies paid into the Supreme Court for suits and matters in the 1981-82 fiscal year totalled \$65.7 million (1980-81 — \$60.9 million) while disbursement for the same period amounted to \$77.6 million (1980-81 — \$63.4 million).

Interest Rates

The interest rate in infants' funds paid into Court before Oct. 1, 1981, was raised to 12 per cent per annum from 10 per cent. Infants' funds paid into Court since Oct. 1, 1981, is invested separately and the rate is reviewed quarterly by the Finance Committee.

Ontario Native Courtworker Program

The program is designed to meet the needs of status, non-status and metis people who come in-

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to conflict with the law. The courtworkers, natives themselves, provide a liaison between the native person and all persons involved in the criminal justice process.

Essentially the duties of a courtworker involve explaining to the accused the reason for their arrest, their legal rights and their responsibilities and the nature and meaning of measures taken by the court including bail, detention and conditional release. Furthermore, the courtworker contacts community and social service organizations where counselling or treatment action is indicated.

The funding for the native courtworker program is provided on a cost-shared basis between the Ministry and the federal Department of Justice. In 1981-82 the budget for the native courtworker program was \$696,000 based on 26 courtworkers located in 16 native friendship centres throughout the province.

Ontario Legal Aid Plan

The purpose of the Plan is to ensure that all individuals in Ontario have access to information about their legal rights and obligations, and have access to legal representation. Representation is available as of right in serious criminal matters, and on a discretionary basis in other matters.

Pursuant to the Legal Aid Act, the Law Society of Upper Canada is responsible for the administration of legal aid in Ontario. The Law Society discharges this responsibility through full-time head-office staff, and officials in each county and district of Ontario, all under the supervision of the Legal Aid Committee which reports to the Convocation of the Law Society. The Attorney General has general responsibilities for the operation of the Plan, and is responsible for the Plan's funding. The Ministry of Community and Social Services establishes criteria for financial eligibility and also performs the financial assessment of applicants for legal aid.

A person seeking legal assistance may apply through any of the 47 area offices across the province for legal aid or may attend at one of the 39 community clinics. Applications are assessed on their legal merits and in accordance with eligibility criteria established by the Ministry of Community and Social Services. The applications and assessments are reviewed by the area directors prior to issuing certificates, which entitle the recipient to retain any lawyer who accepts legal

aid cases. Additionally, duty counsel services are available in the criminal and family courts. Summary advice and representation are provided by the community clinics in a number of areas such as landlord-tenant disputes, consumer issues, workmen's compensation and other benefits assistance, assistance to mentally and physically handicapped persons, assistance to recently landed-immigrants, assistance to individuals and groups with environmental legal problems and the like. The clinics ensure that low-income people of Ontario have access to justice to the extent it is not ordinarily available under the fee-for-service component of the legal aid plan.

Currently there is a cost-sharing agreement with the federal government on criminal legal aid. The formula under the agreement resulted in a federal contribution in 1981-82 equivalent to 38 per cent (or about \$9.5 million) of the net shareable expenditures for criminal legal aid. Federal-provincial negotiations began during the fiscal year 1981-82 with the provincial expectation that the cost-sharing formula in the agreement would be expressed in more equitable terms to the province.

Furthermore, negotiations began with the federal government for cost-sharing of civil legal aid through special assistance provisions of the Canada Assistance Plan under the General Welfare Act. The negotiating process was undertaken by this Ministry in conjunction with the Ministry of Community and Social Services.

The financial implications of the federal Young Offenders Act on the legal aid plan which are estimated to be substantial, have been under careful review. The Act is to come into force sometime between April 1, 1983 and late fall, 1983, for offenders up to 15 years of age and on April 1, 1985, for 16- and 17-year-old offenders.

In general terms the 1981-82 funding for the Plan breaks down as follows: The Province of Ontario — \$40.5 million; the Law Foundation — \$11.6 million; legal aid clients' contributions/recoveries — \$3.6 million; and miscellaneous income — \$0.5 million for a total funding of \$56.2 million. This revenue provided payments for fees and disbursements to the certificate lawyers in the amount of about \$37.7 million; to duty counsel in the amount of about \$3.5 million; and to the independent community clinics about \$5.5 million.

There were 111,500 formal applications for legal aid in 1981-82. The number of certificates issued increased by 1.4 per cent to 81,000 over the preceding year. Duty counsel assisted 226,600 persons in 1981-82 which represents an increase of about 2.2 per cent over 1980-81. The clinics, serving special interests of the communities, operated from 39 centres in 1981-82 which was the same as in 1980-81.

In 1981-82 preliminary developmental work began in order that the Ministry staff could assist the Plan in identifying alternative methods of automating the administrative procedures of the Plan, including the legal aid accounts, statistics reporting, accounting, payroll and personnel.

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, Q.C., LL.B., LL.M.,
S.J.D., LL.D.

Vice Chairman:

H. Allan Leal, Q.C., LL.M., LL.D., D.C.L.

Members:

Honourable Richard A. Bell, P.C., Q.C.

Honourable James C. McRuer, O.C., LL.D., D.C.L.

William R. Poole, Q.C.

Barry A. Percival, Q.C.

Function

The Ontario Law Reform Commission was established by **The Ontario Law Reform Commission Act, 1964**, S.O. 1964, c. 78, now R.S.O. 1980, c. 343. Section 2(1) of the present Act provides that the function of the Commission is to inquire into and consider any matter relating to:

1. reform of the law having regard to the statute law, the common law and judicial decisions;
2. the administration of justice;
3. judicial and quasi-judicial procedures under any Act; or
4. any subject referred to it by the Attorney General.

Since its establishment, the Commission has studied a wide selection of subjects and has published 73 reports, including 15 annual reports, the latter describing the activities of the Commission for the fiscal year. An appendix to each annual report lists the Reports of the Commission and legislation that implements Commission recommendations. Such legislation covers a substantial number of areas and is reflected in such diverse statutes as the **Family Law Reform Act**, R.S.O. 1980, c. 152, **Succession Law Reform Act**, R.S.O. 1980, c. 488, **Children's Law Reform Act**, R.S.O. 1980, c. 68, **Marriage Act**, R.S.O. 1980, c. 256, **Age of Majority and Accountability Act**, R.S.O. 1980, c. 7, Part IV of the **Landlord and Tenant Act**, R.S.O. 1980, c. 232, **Powers of Attorney Act**, R.S.O. 1980, c. 386, and **Occupiers' Liability Act**, R.S.O. 1980, c. 322.

Activities During 1981-82

During the period April 1, 1981, to March 31,

1982, the Commission completed two references, dealing with Class Actions and Witnesses Before Committees of the Legislature.

The **Report on Class Actions**, almost 900 pages long, is a comprehensive examination of the present law of class actions and its deficiencies, and of the need for a revised class action procedure in Ontario. In addition to its review of the law in Ontario, the Commission considered the law of class actions in the other provinces — particularly the recently enacted class action legislation in Quebec — and in England, Australia and the United States. The Commission carefully considered the experience with class actions in the United States under Rule 23 of Federal Rules of Civil Procedure and was able to generate data concerning class actions in the United States federal courts that was helpful in its analysis of possible problems that might be faced in this jurisdiction.

The Commission proposed the enactment of a comprehensive **Class Actions Act**, which would apply to most class actions brought in Ontario. Under the proposed Act, before an action could be maintained as a class action, it would have to be approved by the court as an action appropriate for class treatment by satisfying a number of tests.

To overcome major drawbacks of the present law, the Commission recommended that courts be empowered to make an aggregate assessment of the damages suffered by a class. The Commission also recommended the adoption of a special costs regime for class actions. This costs regime consists of two components. First, with some exceptions, a successful party in a class action would not be able to recover his party and party costs from the unsuccessful litigant. Secondly, the representative plaintiff and his lawyer would be free to enter into a fee agreement that would entitle the lawyer to a fee for his services only in the event that the class action is successful. This fee, which would be court approved, would be an amount that is fair and reasonable compensation for the risk incurred and, in an action for damages, would be payable out of any damage recovery.

In addition to these two major changes in the law of class actions, the Commission also made a number of recommendations to safeguard the interests of class members and class action defendants, including changes in the rules of procedure relating to examinations for discovery, notice, appeals, and the doctrine of **res judicata**.

The Commission's **Report on Witnesses Before Legislative Committees** deals with the nature and powers of legislative committees *vis-a-vis* different types of witnesses — for example, ministers of the Crown, civil servants, witnesses appearing voluntarily or in response to a Speaker's warrant. The report makes recommendations with respect to the rights, privileges, and protection afforded to committee witnesses, the protection of third parties named or discussed at committee hearings, and the form, method of review, and amendment of the **Legislative Assembly Act**, R.S.O. 1980, c. 235.

The Commission concluded that, as a matter of law, all witnesses have the same rights and obligations and are equally subject to the relevant provisions of the **Legislative Assembly Act**. However, the Commission recognized that practical differences do exist between classes of witnesses. In this connection, for example, no change was recommended in the law and practice relating to the invocation and treatment of a claim of Crown privilege.

The main thrust of the report concerns the power of legislative committees to call witnesses and to compel answers to questions, and the rights, privileges, and protection of such witnesses. Recommendations were made respecting the following matters: the taking of oaths; offences under the **Legislative Assembly Act**; sanctions for contempt; Speaker's warrants; the use of brochures informing witnesses of their duties and privileges; the retention and role of counsel for witnesses; the publication of evidence taken at a committee hearing; and the use of *in camera* sessions where, for example, the evidence given might tend to incriminate the witness or involve classified or privileged matters. Proposals also dealt with committee proceedings concerning matters that are *sub judice*.

Finally, the Commission made several recommendations respecting the use of a witness's evidence against him at a subsequent proceeding, having regard, for example, to the inherent privileges of legislatures, existing provincial and federal statutes, and Section 13 of the **Canadian Charter of Rights and Freedoms**. After noting the inability of a committee witness to refuse to answer a question on the ground that the answer might tend to incriminate him, the Commission offered proposals designed to preclude,

notwithstanding the absence of any formal request, the use of such evidence at a subsequent proceeding, except, for example, in a prosecution for perjury.

Present Program

Primarily due to the importance, magnitude, and complexity of the Class Actions Project, work was temporarily suspended on certain other projects in the Commission's program. The present program consists of 11 projects, including a new Project on Remedies for Wrongful Intentional Interference with Goods. Some projects are well advanced; for example, it is anticipated that a **Report on the Law of Trusts**, including a recommended Draft revised **Trustee Act**, will be submitted to the Attorney General by the end of the coming year, and that a **Report on Powers of Entry**, including a recommended new **Powers of Entry Act**, will be submitted in the fall. Substantial progress has also been made on the Project on the Administration of Estates of Deceased Persons and on the two remaining Parts of the **Report on the Enforcement of Judgment Debts and Related Matters**. In addition, work is continuing on such projects as the Hague Convention Concerning the International Administration of the Estates of Deceased Persons, Basic Principles of Land Law, the Law of Mortgages, the Law of Contract Amendment, and Contribution Among Wrongdoers.

In its research and deliberations, the Commission has received valuable assistance from many sources, including the judiciary, the practising and academic bar, and the public. In addition, there has been a continuing liaison with other law reform agencies and such bodies as the Uniform Law Conference of Canada and the Canadian Bar Association.

Ontario Municipal Board

The offices of the Board are located at 180 Dundas Street West, Toronto.

All members of the Board are appointed on a full-time basis* and the following is a list of the members during 1981:

Chairman:

H. E. Stewart

Vice-chairmen:

A. H. Arrell, Q.C.

Boards and Commissions

A. L. McCrae	J. A. Wheler	M. D. Henderson
W. T. Shrives	E. A. Seaborn	D. L. Santo
W.H.J. Thompson, Q.C.	A.J.L. Chapman, Q.C.	D. M. Rogers, Q.C.
D. S. Colbourne	W. E. Dyer, Q.C.	T. F. Baines, Q.C.
D. D. Diplock, Q.C.	C. G. Charron, Q.C.	*J. Worrall, Q.C.
P. M. Brooks	K. D. Bindhardt	*S. R. Cole
H. H. Lancaster	W. L. Blair	*G. Campbell, Q.C.
Members:	D. H. McRobb	*G. T. Dobbs
A. B. Ball	P. G. Wilkes	*G. M. Hobart
C. G. Ebers, Q.C.	J. E. Hendy	*D. W. Middleton
H. W. Kelly, Q.C.	V. M. Singer, Q.C.	

*By Order in Council 2890/81 of October 8, 1981, the members of the Land Compensation Board were appointed members of the Ontario Municipal Board. In like manner the members of the Ontario Municipal Board were appointed to the Land Compensation Board by Order In Council 2891/81 of October 8, 1981.

Secretary: K. C. Andrews

Establishment and Jurisdiction

The Board was created in 1932 under The Ontario Municipal Board Act which repealed but incorporated many of the provisions of The Railway and Municipal Board Act (passed in 1906), The Municipal Schools Accounts Audit Act and The Bureau of Municipal Affairs Act. The establishment of the Board and its authority is now derived from The Ontario Municipal Board Act, R.S.O. 1980, Chapter 347, as amended. Much of its jurisdiction and authority flows from The Municipal Act, The Planning Act, The Highway Improvement Act, The Assessment Act as well as numerous other statutes.

Functions

The Board acts as an independent administrative tribunal and is not an agency or commission. Its function and duties are prescribed by these Acts. When the Board holds a hearing, it is, of course, governed by any applicable statutes; but it is also subject to the rules of natural justice. The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm, of which latter this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedent. Administrative boards, such as this Board, administer what is sometimes called discretionary justice, having a minimum of rules and a wide spectrum of discretion. In matters of law and jurisdiction there is an appeal from the Board to the Courts. In the majority of matters, there is an appeal to the Lieutenant Governor in Council.

The extent and nature of the jurisdiction of the Board could be described as responsibility for the sound growth and development of municipalities within the framework of the statutes and protection of private interests as much as possible.

Applications and Appeals to the Board under the Planning Act

The following table shows the number and types received in 1981 and the previous five years:

	1976	1977	1978	1979	1980	1981
Applications for approval of restricted area bylaws	3202	3417	3569	3995	2484	2283
Applications for approval of plans of redevelopment	0	1	24	18	21	17
Applications for approval of proposed plans of subdivision and condominium	47	62	34	71	46	52
Applications for approval of Official Plan amendments	157	229	213	180	243	208
Appeals for amendment of restricted area bylaws	120	109	112	146	121	109
Appeals from Committees of Adjustment and Land Division Committees	2205	1793	1833	1704	1358	1122
	5731	5611	5785	6114	4273	3791

Approval of Capital Undertakings and the Imposition of Rates and Levies to Recover the Cost thereof

In 1981, the Board prepared a revised edition of the booklet "The role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards". This booklet was mailed to all Commissioners of Finance and Treasurers of all regions, counties and municipalities in the province to provide a better understanding of the Board's role and for assistance in providing the financial information as required by the Board in this connection,

In order to avoid delay and to expedite the processing of applications for approval of capital expenditures, the Board establishes in each year:

(a) a capital expenditure quota for all regional municipalities and cities and the larger towns and townships that normally submit applications frequently in one year, and

(b) a permissible debt limit for all other municipalities.

The following table shows the number of applications for approval of capital expenditures and related matters received by the Board in 1981 and the previous five years.

Year	Applications
1976	3056
1977	2608
1978	2536
1979	2364
1980	2426
1981	2148

Assessment Appeals and Miscellaneous Applications

In addition to the number of capital expenditure applications and applications under The Planning Act, the Board received the following appeals and applications in 1981 under the various statutes specified:

The Assessment Act	406
The Conservation Authorities Act	50
The Local Improvement Act	2
The Municipal Act	49
The Pits and Quarries Control Act	9

The Public Transportation and Highway Improvement Act	4
Special Legislation (Municipalities)	28
Other	62
	<u>610</u>

Summary of Applications and Appeals

The following is a summary of applications and appeals to the Board for the years 1976 to 1981:

	1976	1977	1978	1979	1980	1981
Restricted Area Bylaws, Official Plan Amendments, Etc.	3526	3818	3952	4410	2915	2669
Committee of Adjustment and Land Division Committee Appeals	2205	1793	1833	1704	1358	1122
Capital Expenditure Applications	3056	2608	2536	2364	2426	2148
Assessment Appeals and Miscellaneous	356	367	359	459	631	610
	<u>9143</u>	<u>8586</u>	<u>8680</u>	<u>8937</u>	<u>7330</u>	<u>6549</u>

Board Hearings

Years	No. of Hearings	No. of applications dealt with at hearings
1976	1877	2335
1977	1996	2492
1978	2351	2959
1979	2366	3286
1980	2384	3135
1981	1676	2308

Board Decisions

Decisions of the Board of leading cases may be found in the Ontario Municipal Board Reports (O.M.B.R.) published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of decisions are also distributed by the Board to appropriate government agencies and to various universities and law libraries for reference purposes. Copies of individual decisions may be obtained on request from the offices of the Board.

Boards and Commissions

Criminal Injuries Compensation Board

Chairman:

Allan Grossman

Vice-chairman (part-time):

Mrs. Anne Stanfield

Vice-chairman (part-time):

Mrs. Audrey Merrett

Members (part-time):

Douglas H. Lissaman, Q.C.

Robert W. Mitchell, Q.C.

Harvey Spiegel, Q.C.

Nathan L. Sandler

Uno Viegandt

E. Lee Monaco

D. Arthur Evans

Linda Clippingdale

John D. V. Hoyles

Greville Clarke

Anne Tomljenovic

The Board, composed of one full-time chairman and 13 part-time members, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting

to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearing

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Fort Frances, Thunder Bay, Sudbury, Sault Ste. Marie, Ottawa, London, Sarnia and Windsor, where hearings were conducted during the year.

Productivity

The Board heard 980 applications, compared with 985 in 1980-81. A total of \$2,780,496.74 was paid out in compensation, a 14 per cent increase over the previous year. The average award rose from \$2,132.14 in 1980-81 to \$2,308.02 in 1981-82.

Annual Report

This report is available from the Board's office at 439 University Avenue, 17th Floor, Toronto M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Comparative Summary — Fiscal Years Applications and Disposition

	April 1, 1978 to March 31, 1979	April 1, 1979 to March 31, 1980	April 1, 1980 to March 31, 1981	April 1, 1981 to March 31, 1982
Applications under investigation on April 1	1500	1826	1913	1949
Eligible applications received	1219	1190	1274	1250
Applications heard (1)	713	858	985	980
Applications heard and dismissed	47	75	125	128
Applications heard — further evidence required	0	1	1	2
Second hearings	1	1	1	0
Review of awards	6	13	7	6
Decisions completed and awards ordered (2)	713	843	918	979
Files closed	180	245	253	476
Interim awards	6	8	4	6
Supplementary awards	12	49	52	71
Periodic awards	20	29	17	16
Lump sum payments	\$1,397,994.00	\$1,736,551.32	\$1,957,309.86	\$2,254,654.16
Periodic payments	350,490.75	434,137.59	477,034.06	525,842.58
Total of awards ordered	1,748,484.75	2,170,688.91	2,434,343.92	2,780,496.74
Average award (3)	1,960.72	2,059.97	2,132.14	2,303.02
Applications under investigation March 31	1826	1913	1949	1743

Note: (1) Includes heard but dismissed and heard but further evidence required but does not include files closed.

(2) Includes interim, supplementary and periodic awards.

(3) Periodic payments not included when arriving at average award.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G. C. Hewson

Vice-Chairman (part-time):

S.R.R. McNeil

Members (part-time): 65

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69, and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1. Complaints against errors or omissions of real property assessment and school support for the basis of municipal taxation in Ontario at the lowest cost to the taxpayer.
2. The apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block.
3. When authorized by municipal bylaw (or by way of an appeal from the decision of a municipal council) applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

The Regional Registrars of the Court are responsible for the processing and scheduling for hearing of complaints against assessments and school support and the certification of the last revised assessment roll of each municipality in Ontario. The Regional Registrar also schedules all appeals from the decisions of the Court to the County or District Court Judges within the province under Section 42(55) of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1981, to March 31, 1982.

1. Court Sittings

During the year the Court sat for 2,766 days in various municipalities throughout the province and heard and determined 148,751 appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Sections 34(44) and 39(52) of The Assessment Act and processed and scheduled appeals to the County or District Judge under Section 42(55) of The Assessment Act and applications and appeals under Section 496(636a) of The Municipal Act.

During this period as in 1980-81, the Assessment Review Court experienced an increase over former years in complaints relating to all types of properties and in particular complaints relating to large industrial complexes and income producing properties such as apartment houses, office towers, shopping centres and major hotels, and houses insulated with urea formaldehyde foam all involving considerable amounts of assessment and municipal tax monies. Because of their complex nature, one such complaint can take a great deal of time to hear and dispose of. This has seriously affected the Court's productivity and the early disposition of complaints. Additional members part-time are required to catch up with the current increase in the undisposed complaints and appeals.

To assist in scheduling certain complex complaints assignment courts were held in Toronto.

Additional municipalities were re-assessed under the provisions of Section 63(86) of The Assessment Act resulting in a considerable increase in the number of complaints in these municipalities in the first year of the programme.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional seminars in London, Sault Ste. Marie, Ottawa, Kitchener and Toronto.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Bracebridge and Haliburton.

Clerks of the Court in the Grand River Niagara Region attended an instructional seminar in Hamilton.

3. Administrative Matters

During this period, the Court continued to review

Boards and Commissions

its practice and procedures and implemented changes where necessary in order to improve its efficiency in processing and disposing of complaints. A summary of Assessment Review Court complaints and appeals is set out at the end of this report.

The purpose of the Assessment Review Court is to hear and determine complaints relating to assessments throughout the province as soon as may be practicable. With the increase in volume and complexity of complaints, the main difficulty in completing the hearings arises in scheduling and disposing of the complaints as soon as practicable so that the assessment rolls can be certified.

Program of Operations for the fiscal year 1982-83

1. The principal objective of The Assessment Review Court in the next fiscal year and in succeeding years will be to continue to improve the procedures for scheduling and increase the number of hearing days to enable the assessment rolls to be certified as soon as possible.

2. The Assessment Review Court has improved the new Court scheduling and disposition system designed with visual display terminals located in each of the Regional offices. Complaint information is keyed and verified through these terminals. In addition, an online inquiry function is supported. Information about a property in question can be extracted from an assessment file and maintained on a complaint master file. Various management reports and statistics, together with notices of hearings, decisions and court records can be produced. A Court scheduling system has been provided with the ability to handle early appearances, appeals and adjournments. Finally, a history sub-system is included to reduce the costs of operation and to maintain records of completed cases. This system became operational in December, 1980, and is being added to with a case digest program to provide a ready digest of case law for the members as required.

A policy submission on the Revision of Assessment Review and Appeal Procedures has been submitted to the Cabinet and is now the subject to review by the Justice Policy Committee.

The main purposes of this submission are as follows:

1. To eliminate multiple "trials de novo" procedures at each level of assessment review and appeal.

(Assessment Review Court, County Judge, persona designata, and the Ontario Municipal Board.)

2. To relieve County and District Court Judges from hearing quantum appeals in assessment matters and substituting for this level of assessment appeals procedure an appropriate administrative tribunal which would provide a final decision.

Summary of Assessment Review Court Complaints and Appeals

	1979-80	1980-81	1981-82
Section 39(52) of The Assessment Act (1)	117,132	119,658	152,763
Section 32(42) and 33(43) of The Assessment Act (11)	6,620	5,564	11,378
Sections 496(636a) of The Municipal Act (111)	31,099	30,641	23,642
Total	154,851	155,863	187,783

- Footnotes:
- (I) This section deals with complaints against annual assessment and school support made under Section 30(40) of The Act.
 - (II) This section deals with complaints against additional assessment made under Sections 32(42) and 33(43) of The Act.
 - (III) These sections deal with applications and appeals relating to:
 - (a) Apportionment of municipal taxes
 - (b) Cancellation, reduction or refund or municipal taxes
 - (c) Increase in municipal taxes by reason of clerical errors.

Summary of Appeals to County and District Court Judges (Section 42(44) of The Assessment Act

1979-80	1980-81	1981-82
13,951	14,806	20,877

Board of Negotiation

Chairman:
G. W. Swayze

Members:
J. M. Bennett
J. A. Ferguson
F. L. Heaman
W. J. Mowat

Function

The Ontario Board of Negotiation was created by provision of The Expropriation Act, 1968-69, Section 27. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner a settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising the time and place of meeting. The Board meets throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf and present his compensation claim.

The Board listens to both parties and if it considers it has enough information and the parties have not agreed during the meeting, then it will give its opinion as to the compensation the Board feels would be fair. This may or may not be accepted by either party; if no agreement follows, they are free to proceed to arbitration (Ontario Land Compensation Board).

Monthly Breakdown Fiscal Year April 1, 1981 – March 31, 1982

	Requests Received	Meetings Held
April	6	10
May	10	6
June	6	12
July	4	4
August	8	3
September	12	7
October	10	10
November	12	8
December	11	9
January	4	12
February	8	10
March	4	3
	95	94

Note: As of March 31, 1982, there were 14 files in process (three of the 14 are to be scheduled and 11 are scheduled for meetings and waiting to be held)

Activity Report — Fiscal Year 1981 – 1982

Expropriating Party	Number of Applications
Corporation of the Borough of Scarborough	1
Corporation of the City of Brantford	3
Burlington	1
Chatham	1
Cornwall	1
Hamilton	1
London	1
Oshawa	1
Ottawa	3
Port Colborne	1
St. Catharines	1
Windsor	4
Woodstock	2
Corporation of the County of Middlesex	1
Northumberland	1
Peterborough	1
Victoria	2
Corporation of the Provincial County of Haliburton	2
Corporation of the Town of Fort Frances	1
Milton	1
Richmond Hill	2
Stoney Creek	1
Tillsonburg	1
Corporation of the Township of Kingston	1
Nipigon	3
Roxborough	1
District Municipality of Muskoka	1
Lakehead Region Conservation Authority	5
Ministry of the Environment	1
Government Services	4
Housing	2
Transportation and Communications	24
Municipality of Metropolitan Toronto	1
Municipality of the Township of Longueuil	1
Ontario Hydro	6
Regional Municipality of Hamilton-Wentworth	1
Ottawa-Carleton	3
York	4
Union Gas Limited	1
Wentworth County Board of Education	2
	95

Boards and Commissions

Two-Year Follow-Up Report
Fiscal Year 1980-1981

Number of requests for meetings (1980-81)	142
Number of settlements reported following negotiations in the period April, 1980 to March 31, 1981	52
Requests for meetings — cancelled	8
Balance to be surveyed by Two-year Follow-up	82

This Report is based on replies to 82 Questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1980-1981 meetings.	
Questionnaires mailed	82
Replies received	73
Unanswered	9
Settlements (Board of Negotiation's Recommendation a factor)	26
Proceeded to, or intending to proceed to Land Compensation Board	22
Still Negotiating	19
In Abeyance, pending, not presently being negotiated	6
	82

Land Compensation Board

Acting Chairman:
P. M. Brooks

Vice-chairmen and Members of L.C.B. and O.M.B. cross appointed

Registrar:
C. E. Warner

Established

Under authority of the Expropriations Act, December 1, 1970.

Function

Arbitration tribunal to determine compensation to be paid for property expropriated or injuriously affected.	
Applications outstanding March 31, 1980	312
Applications outstanding March 31, 1981	360
Applications outstanding March 31, 1982	393

	78/79	79/80	80/81	81/82	(Projected) 82/83
Number of Applications rec'd	104	152	141	130	140
Decisions	51	36	21	26	60
Settlements	72	129	72	71	80
Total	123	165	93	97	140
Motions	34	29	35	57	60

The Board operated for about six months with only two vice-chairmen and four members constituting two quorums. This resulted in an increase in the advance scheduling time from three months to eight months, a backlog of decision and an increase in the numbers of outstanding applications.

An increase in the number of applications is anticipated in the next fiscal year. As more Ontario Municipal Board vice-chairmen become available to preside on hearings an increase in the number of hearings and decisions is anticipated as well as a reduction in the advance scheduling time and the number of outstanding applications.

Office of The Public Complaints Commissioner

Sidney B. Linden, Q.C.
Commissioner

The Metropolitan Police Force Complaints Project Act, 1981, received third reading November 17, 1981, and was proclaimed December 21, 1981.

The legislation was created in response to recommendations contained in the Maloney Study (1975), the Morand Report (1976), the Pitman Task Force (1977) and Cardinal Carter's Report (1979). All focused attention on the need for a more formalized system of dealing with public complaints against the Police, as well as the need for a greater civilian component in the complaints process.

The Act establishes a Public Complaints Commissioner and the Police Complaints Board. The commissioner is the chairman of the board.

Although the legislation was not proclaimed in force until December 21, 1981, the commissioner was appointed on July 15, 1981, and, with a skeleton staff began preparations for the establishment of the office. By agreement with Chief Ackroyd of the Metropolitan Toronto Police Force, the commissioner began monitoring public complaints on September 14, 1981.

From September 14, 1981 until March 31, 1982, about 500 citizen complaints were monitored by the Office of the Public Complaints Commissioner. As of March 31, 1982, this office consisted of 11 staff members in addition to the commissioner.

The commissioner intends to provide the Ministry with annual reports for each 12-month period ending December 20, rather than the annual reports for a 12-month period ending at the Ministry's fiscal year, namely March 31. The reason for this is that this office is set up as an experimental project for three years, or such longer period of time, depending on the date that the Act is repealed by proclamation of the Lieutenant Governor.

This pilot project is for a period of three years or such further duration as is named by proclamation of the Lieutenant Governor. During that period of time there will be:

- a) continuous monitoring and evaluation of the project;
- b) continuous consultation with all interested groups in Metropolitan Toronto; and
- c) continuous consultation with all the jurisdictions in the province which might be subsequently affected.

At the end of the project a detailed report will be submitted which will provide the basis for future legislation and it is recognized that, if appropriate, the present legislation may be amended, made more permanent and possibly, extended to other parts of the province, if the need is demonstrated at that time.

The following will outline the major areas of responsibility for the commissioner and the board.

Areas of Responsibility

A. Public Complaints Commissioner

The major responsibilities of the Commissioner and his office are as follows:

1. Receipt of Complaints

A citizen may lodge his complaint directly with the commissioner. A citizen may also lodge his complaint at a police station or the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. In these latter two situations, a copy of the complaint is forwarded to the commissioner.

2. Investigation of Complaints

The commissioner has the authority to investigate the allegations in the complaint, 30 days after the complaint is received or earlier, if there are reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of the initial police investigation.

The commissioner receives interim reports on the police investigation every 30 days and a final report when the investigation is completed. Upon receipt of a copy of the final investigation report, the commissioner may request the chief of police to cause further investigation to be made into the complaint.

3. Resolution of Complaints

A complaint may be resolved informally by the police during the course of or prior to a formal investigation. In these situations, a record of the information resolution is forwarded to the commissioner. The commissioner reviews the record of the informal resolution and may, after such review, request that investigation or further investigation be done by the police.

The commissioner can also resolve a complaint informally at certain stages in the process.

4. Review Process

Once the investigation is completed, the chief of police decides what, if any, further action should be taken. A complainant who is not satisfied with the decision made by the chief of police has the right, in certain circumstances, to have the commissioner review the matter.

As well, if the chief of police has caused disciplinary proceedings to be taken under the Police Act and the complainant is not satisfied with the decision made in the disciplinary proceedings, the complainant has the right to request the commissioner to review the matter. The review by the commissioner will involve further investigation into the allegations made by the complainant.

5. Decision to Order a Police Complaints Board Hearing

After completing his review, the commissioner may order a board hearing if he believes that, in the public interest, such a hearing is required, or he may decide to take no further action. Where his decision is to take no further action, the commissioner must give his reasons.

If the commissioner orders a hearing, it is his

Boards and Commissions

responsibility to assign a member or members of the board to conduct a hearing. The commissioner must decide whether the complaint alleges misconduct by the police officer that is of a minor nature or serious nature. In the former case, he will assign one member of the board who has had training in law to sit alone to conduct a hearing. In the latter case, he shall assign three members of the board who shall constitute a panel to conduct the hearing.

6. Chairman of Police Complaints Board

The commissioner is the chairman of the Police Complaints Board and has general supervision and direction over the conduct of the affairs of the Board. It is his duty to arrange the sittings of the board and to assign members to conduct hearings, as circumstances require.

7. Recommendations

Where, after completing a review, the commissioner is of the opinion that a police practice or procedure should be altered, he must report his opinion and recommendations to the Attorney General, the Ontario Police Commission, the Metropolitan Toronto Board of Commissioners of Police and the chief of police.

8. Hold-Up Squad Allegations

On October 22, 1981, at a meeting of the Board of Commissioners of Police, letters from seven lawyers were tabled. These letters contained allegations that a number of clients had been tortured by members of the Hold-Up Squad of the Metropolitan Toronto Police Force.

Initially, the commissioner monitored the investigation conducted by a Special Investigation Team from the Metropolitan Toronto Police Force, and on February 23, 1982, the commissioner took over this investigation.

These allegations and the subsequent events outlined above have been closely followed in the media. The present investigation is being conducted in accordance with the procedures set out in Bill 68. However, in view of the extremely sensitive nature of the investigation, it is being conducted separately and apart from all the other citizen complaints.

B. Police Complaints Board

The major responsibilities of the Police Complaints Board are as follows:

1. Hearings

The board must hold hearings when ordered by the

commissioner and when the chief of police refers the matter to the board for a hearing.

The board is responsible for all administrative affairs concerning its hearings. The hearings are open to the public and the board may appoint counsel to assist at the hearing.

The board must give written notice of its decision and the reasons therefor to the chief of police, the person who made the complaint and the police officer concerned.

2. Appeals

Where the chief of police has caused disciplinary proceedings to be taken under the Police Act, the police officer concerned may appeal from that decision to the board and the board must hold a hearing.

Statutory Powers Procedures Rules Committee

Chairman:

A. Rendall Dick, Q.C.

Deputy Attorney General

Vice-chairman:

G.W.T. Reed, Q.C.

Members:

The Hon. J. W. Morden, Justice, Supreme Court of Ontario

D. K. Laidlaw, Q.C.

Derek Mendes da Costa, Q.C.

John M. Evans

Responsibilities

The Committee, established in 1973 under the Statutory Powers Procedure Act, has three main functions:

(a) to be consulted concerning rules of procedure made to govern the proceedings of tribunals required to comply with the minimum rules in the Act;

(b) to keep under continuous review the practice and procedure in proceedings of tribunals and other bodies specified in the Act; and

(c) subject to the approval of the Lieutenant-Governor in Council to make rules respecting the reporting, editing and publication of decisions of tribunals required to comply with the minimum rules.

In exercising its powers under the Act the

committee may require tribunals and other bodies to report to it their rules of procedure and may require them to formulate rules where none have been adopted.

Consultation

During the fiscal year 1981-1982 the Committee was consulted on the following matters:

- (1) Proposed amendments to the procedural by-laws of the Institute of Chartered Accountants of Ontario governing discipline of members;
- (2) Proposed amendments to the University of Toronto Disciplinary Enactment dealing with student and staff discipline within the University; and
- (3) Proposed rules of procedure to govern procedures of the Relations and Discipline Committee of the Ontario Teachers' Federation under the Teaching Profession Act.

Review and Informal Advice

The committee held discussions concerning the procedures of Regional Boards of Review under the Mental Health Act. In addition, it gave informal telephone and written information to the public and legal profession concerning the operation of the Statutory Powers Procedure Act.

Agencies, boards and commissions operating within the Ministry and which have financial and administrative relationships with the Ministry.

Advisory Committee of the Public Trustee on Investments
Assessment Review Court
Board of Negotiation
Criminal Injuries Compensation Board
Finance Committee for the Investment of Court Funds
Land Compensation Board
Ontario Law Reform Commission
Ontario Municipal Board
Police Complaints Commission
Public Trustee
Statutory Powers Procedure Rules Committee.

Agencies, boards and commissions connected with or working with this Ministry but who do not have any financial or administrative relationship with the Government.

Advisory Committee on Legal Aid (To Be Terminated)
Council of the Association of Professional Engineers of the Province of Ontario
Judicial Council for Provincial Judges
Law Foundation of Ontario
Law Society of Upper Canada
Ontario Provincial Courts Committee
Registration Board of the Ontario Association of Architects
Rules Committee (Judicature Act)
Rules Committee of the Provincial Courts (Criminal Division)
Rules Committee of the Provincial Courts (Family Division).

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act	Evidence Act
Absentees Act	Execution Act
Accidental Fires Act	Expropriations Act
Accumulations Act	Extra-Judicial Services Act
Administration of Justice Act	Frustrated Contracts Act
Age of Majority and Accountability Act	Factors Act
Aliens' Real Property Act	Family Law Reform Act
Anti-Inflation Agreement Act	Fines and Forfeitures Act
Arbitrations Act	Fraudulent Conveyances Act
Architects Act	Fraudulent Debtors Arrest Act
Assessment Review Court Act	Frustrated Contracts Act
Assignments and Preferences Act	
	Gaming Act
Bail Act	General Sessions Act
Barristers Act	
Blind Persons' Rights Act	Habeas Corpus Act
Bulk Sales Act	Hospitals and Charitable Institutions Inquiries Act
Business Records Protection Act	Hotel Registration of Guests Act
Change of Name Act	Innkeepers Act
Charitable Gifts Act	Interpretation Act
Charities Accounting Act	Interprovincial Subpoenas Act
(and Bill 204 — to amend)	
Children's Law Reform Act	Judges' Orders Enforcement Act
(Bill 125 — Children's Law Reform Amendment Act)	Judicature Act
Commissioners for taking Affidavits Acts	Judicial Review Procedure Act
Compensation for Victims of Crime Act	Juries Act
Constitutional Questions Act	Justices of the Peace Act
Conveyancing and Law of Property Act	
Costs of Distress Act	Landlord and Tenant Act
County Court Judges' Criminal Courts Act	Law Society Act
County Courts Act	Legal Aid Act
County Judges Act	Libel and Slander Act
Creditors' Relief Act	Limitations Act
Crown Administration of Estates Act	Lord's Day (Ontario) Act
Crown Agency Act	
Crown Attorneys Act	Master and Servant Act
Crown Witnesses Act	Matrimonial Causes Act
	Mechanics' Lien Act
Disorderly Houses Act	Mental Incompetency Act
Dog Owner's Liability Act	Mercantile Law Amendment Act
Dominion Courts Act	Metropolitan Police Force Complaints Project Act, 1981
	Ministry of the Attorney General Act
Escheats Act	Minors Act
Estates Administration Act	Minors' Protection Act
Estreats Act	Mortgages Act
	Municipal Conflict of Interests Act

Appendix

Negligence Act	Ticket Speculation Act
Notaries Act	Time Act
	Trespass to Property Act
Occupiers' Liability Act	Trustee Act
Ontario Law Reform Commission Act	
Ontario Municipal Board Act	Unconscionable Transactions Relief Act
	Unified Family Court Act
Partition Act	(Self repealing July 1, 1982)
Partnerships Act	University Expropriation Powers Act
Pawnbrokers Act	
Perpetuities Act	Variation of Trusts Act
Powers of Attorney Act	Vendors and Purchasers Act
Proceedings Against the Crown Act	Vexatious Proceedings Act
Professional Engineers Act	
Property and Civil Rights Act	Wages Act
Provincial Court (Civil Division) Project Act	Warehouse Receipts Act
(Self repealing Jan. 1, 1983)	Warehousemen's Lien Act
Provincial Courts Act (Part)	
Provincial Offences Act	
Public Accountancy Act	
Public Authorities Protection Act	
Public Halls Act	
Public Inquiries Act	
Public Institutions Inspection Act	
Public Officers Act	
Public Officers' Fees Act	
Public Trustee Act	
Quieting Titles Act	
Reciprocal Enforcement of Judgments Act	
Reciprocal Enforcement of Maintenance Orders Act	
(and Bill 193 — to amend)	
Regulations Act	
Religious Freedom Act	
Religious Organizations' Lands Act	
Replevin Act	
Sale of Goods Act	
Settled Estates Act	
Sheriffs Act	
Short Forms of Conveyances Act	
Short Forms of Leases Act	
Short Forms of Mortgages Act	
Small Claims Courts Act	
Solicitors Act	
Statute of Frauds	
Statutes Act	
Statutory Powers Procedure Act	
Succession Law Reform Act	
Surrogate Courts Act	

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